

State of Israel
PATENTS LAW 5727-1967
as consolidated 2014

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SCHEDULE ONE

SCHEDULE TWO (section 142)

CHAPTER ONE DEFINITIONS

1. in this law

"WTO" - the World Trade Organization established by the agreement signed at Marrakesh on April 15, 1994;

"examiner" - a person appointed under Law to be a Patent Examiner or a Chief Examiner or the Superintendent of Examiners;

"owner of an invention" - the inventor himself or persons who derive title under him, being entitled to the invention by operation of Law, by transfer or by agreement;

"patent holder" - the person registered in the Register as the person to whom a patent was granted or to whom ownership of a patent has passed;

"Office" - the Patent Office referred to in Chapter Ten;

"Convention State" - a Member State of the Union for the Protection of Industrial Property, by virtue of the Paris Convention for the Protection of Industrial Property, or a group of Convention States who maintain a joint system for the submission of patent applications, including territories to which the Convention was made applicable by virtue of powers granted for this purpose by the Convention;

"Member State" - a union state or a state that is a member of the WTO;

"exploitation of an invention" -

(1) In respect of an invention that is a product - any act that is one of the following: production, use, offer for sale, sale, or import for purposes of one of the enumerated acts;

(2) in respect of an invention that is a process - use of the process, and in respect of a product directly derived from the process - any act that is one of the following: production, use, offer for sale, sale, or import for purposes of one of the enumerated acts;

but excluding any of the following:

(1) any act not performed on a commercial scale and is not commercial in character;

(2) any experimental act in connection with the invention, the objective of which is to improve the invention or to develop another invention;

(3) any act performed under the provisions of section 54A.

"Patent attorney" - a person registered in the Register of Patent Attorneys who holds a patent attorney's license;

"Register" - the Register of Patents kept under the provisions of section 166

"Public notice on the Internet" - public notice under section 166A

"Registrar" - the person appointed Registrar of Patents under section 157, including - subject to the provisions of section 158 - a Deputy

Registrar;

"Application date" - the date on which the patent application was submitted, as prescribed for that purpose in section 15, unless a different date is prescribed by or under this Law.

CHAPTER TWO PATENTABILITY

Right to apply for a patent

2. The owner of a patentable invention is entitled under the provisions of this Law to apply that a patent be granted him for it.

What constitutes a patentable invention

3. An invention, be it a product or a process in any field of technology, which is new and useful, has industrial application and involves an inventive step, is a patentable invention.

What constitutes a new invention

4. An invention is deemed new if it was not published, in Israel or abroad, before the application date -

(1) by written, visual, audible or any other description, in a manner that enables a skilled person to make it according to the particulars of the description;

(2) by exploitation or exhibition, in a manner that enables a skilled person to make it according to the particulars thus made known.

An inventive step

5. An inventive step is a step which does not, to an average skilled person, appear obvious in the light of information published before the application date in ways said in section 4.

Publications not affecting right of owner of invention

6. The right of the owner of an invention to be granted a patent shall not be affected by publication said in section 4 if -

(1) it is proved that the matter published was obtained from the owner of the invention or his predecessor in title and was published without his consent, and if the patent application was filed within a reasonable time after the publication became known to the applicant;

(2)

(a) the publication was by the owner of the invention or his predecessor in title in one of the following ways:

(i) Display at a trade or agricultural show in Israel or at a recognized exhibition in one of the Member States, of which the Registrar has received a formal notification prior to their opening.

(ii) publication of a description of the invention at the time of a aforesaid exhibition;

(iii) use of the invention for the purposes of the exhibition and at the

place of the exhibition;

(b) Publication was performed by way of using the invention, regardless of owners' consent, at the time and place of the exhibition or outside it; provided that the patent application was submitted within six months following the opening of the exhibition;

(3) publication was performed by way of a lecture by the inventor before a scientific society or by publication of the lecture in official transcripts of the society, provided that the Registrar was given notice of the lecture prior to its delivery and that the patent application is filed within six months from the aforesaid publication.

Restriction on granting of patents

7. Notwithstanding the provisions of section 2, no patent shall be granted for -

(1) a method of therapeutic treatment on the human body;

(2) new varieties of plants or animals, except microbiological organisms not derived from nature.

A Patent for a single invention

8. A patent shall be granted solely for a single invention.

First application first in right

9. Where more than one applicant applied for a patent for the same invention, the patent shall be granted to the first who applied for it according to the law.

Priority right

10.

(a) Where the owner of an invention filed an application in Israel for a patent for an invention for which he or his predecessor in right had previously submitted an application for a patent in a member state (hereafter: previous application), then he may request that, for the purposes of sections 4, 5 and 9, the date of the previous application be deemed the date of the application filed in Israel (hereafter: priority right), if all the following conditions are met:

(1) the application in Israel was submitted within 12 months from filing of the previous application; where more than one previous application have been filed with regards to the same matter - after the date at which the earliest was filed;

(2) the claim for priority right was made no later than two months after filing of the application in Israel;

(3) a copy of the specification and any accompanying drawings have been submitted to the Registrar at the time prescribed in Regulations along with the previous application, and the specification is certified by an accredited authority in the member state to which the previous application was submitted;

(4) It appears to the Registrar that the invention described in the previous application and the invention for which a patent is sought in Israel are essentially the same.

(b) Where the claim for a priority right is based on more than one previous application, and a priority right is claimed on the basis of each of those applications, then the provisions of subsection (a) shall apply to each and every part of the invention in accordance with the earliest date of the previous application relating to such part.

(c) Where the claim for a priority right is based on a part of a previous application, then the provisions of subsection (a) shall apply as if such part had been claimed overseas in a separate previous application.

(d) A priority right may be claimed in respect to a part of a patent application, and the provisions of subsection (a) shall thereupon apply to that part only.

CHAPTER THREE PROCEDURE OF GRANTING PATENT

Article One Patent Application

Submission of patent application

11.

(a) A patent application shall be submitted to the Office in the prescribed manner and form, along with the prescribed fees, and it shall include the name of the applicant, an address in Israel for the service of documents and a specification of the invention.

(b) Where the applicant is a person other than the inventor, then he shall state in the application how he came to be the owner of the invention.

Specification

12.

(a) The specification shall include a title by which the invention can be identified, its description with drawings that may be necessary, and also a description of the manner in which the invention can be performed, thus enabling a skilled person to perform it.

(b) For purposes of subsection (a), where the subject of the invention is a biological material or a process for the production of a biological material or an invention that involves the use of a biological material, and where the biological material has been deposited in a deposit institution, then part of the description of the invention or of the manner of performance thereof may consist of referral to such deposit, all in accordance with the terms and conditions set forth by the Minister of Justice with approval by the Knesset Constitution, Law and Justice Committee.

For purposes of this section -

"biological material" - a biological material not readily available to the public, which cannot be described in such a manner as to enable a skilled person to perform the invention, provided that the biological material can be duplicated or reproduced, either independently or in a host animal or plant cell;

"deposit institution" - an institution recognized as an international deposit authority under section 7 of the Budapest Treaty, or an institution which the Registrar recognized for purposes of this section, notice thereof having been published in the official gazette;

"Budapest Treaty" - the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977, and amended on September 26, 1980;

the Treaty is available in the Office for inspection by the public.

Claims

13.

(a) The specifications shall end with a claim or claims that define the invention, provided that each of the aforesaid claims reasonably arises out of the description in the specification.

(b) It shall be permissible to express in the claim any of the basic elements of the invention as means or step to perform a certain act, and it is unnecessary to specify the structure, material or acts required for such act; any claim thus expressed shall be deemed as though it includes particulars of the relevant structure, material or acts, as described in the specifications.

Acknowledgment of submission

14. When an application has been submitted in the prescribed manner, the Registrar shall, as soon as possible, confirm to the applicant the fact and date of its submission.

Application date

15. The date of the patent application shall consist of the time when such application was first submitted to the Office, regardless of any defect in form; however, where it appears no invention is described therein, prima facie, or where the name of the applicant is not stated or the fee payable for submitting the application has not been paid, then the application date shall consist of the time when such requirements have been met.

Public notice that application was submitted

16.

(a) As soon as possible after the application was submitted to the Office, the Registrar shall, at the applicant's expense, publish in the Internet the name of the invention for which the patent is sought, the name of the applicant, number of application, and application date, and - Where a priority is claimed - the Member State in which the previous application was submitted, the filing date and its number or other identifying mark given it by the authority to which it was submitted, and also other particulars prescribed by the Minister of Justice with approval by the Knesset Constitution, Law and Justice Committee.

(b) Where an application for priority right has been filed following a publication on the fact of application under subsection (a), then the

fact of such application shall be re-published, at the applicant's expense, along with any additional particulars.

(c) The Minister of Justice shall, by order, prescribe the commencement date of this section.1

Public notice regarding opening applications for public inspection

16A.

(a) The Commissioner shall publish a public notice on Internet, as aforementioned under section 166A, as soon as possible after the prescribed date, and therein a list of applications and all documents relating thereto shall be accessible online for public inspection, from the date of publication thereon (in this section – the notice); however the Commissioner shall not include in such aforementioned notice –

(1) An application that has been dismissed or canceled prior to the prescribed date;

(2) An application that the fact of allowance thereof has been published under section 26 prior to the prescribed date.

(b) Notwithstanding the provisions of subsection (a), the notice on the matter of an international application as defined under section 48A, shall be published within 45 days from the date the applicant fulfilled the provisions under section 48D.

(c) For the purpose of this section, "prescribed date" – 18 months from the filing date of the application to the Office; for the purpose of an application for priority right – 18 months from the filing date of the previous application, as defined under section 10(a), or 18 months from the earliest previous application as aforementioned under section 10(b), as the case may be.

Article Two Examination and Acceptance of Application

Acceptance of application

17.

(a) The examiner shall examine whether the application meets the following:

(1) the invention therein is patentable within the meaning of Chapter Two;

(2) the application complies with the provisions of Article One of this Chapter;

(a1) The examiner shall accept the application where he is satisfied that the requirements of this section have been met; when he has accepted the application, he shall so notify the applicant; the notice shall state

the acceptance date.

(a2) In regards to the application, the examiner shall produce, at the request of the applicant – a report in the format of an international search report, as defined in section 48A.

(b) Notwithstanding the provisions of subsection (a) (1), no examination shall be necessary if the invention is not patentable by virtue of section 4(2).

(c) Where the requirements specified below are met by an application, then such application shall be deemed to have complied with the provisions of section 4, 5, 8, 12 and 13:

(1) the applicant submitted a patent application for the same invention (in this section - parallel application) and was granted such patent in a state whose name appears in the list published by the Registrar in The Official Gazette (in this section - parallel patent), and all the following holds true:

(a) priority right was lawfully claimed for the patent application in Israel under section 10, by virtue of the parallel application;

(b) priority right was claimed for the parallel application under the Law applicable to thereto, by virtue of the patent application in Israel;

(c) priority right was lawfully claimed for the patent application in Israel by virtue of another application for protection submitted in a Member State, and by virtue of such application the priority right is claimed for the parallel application under the Law applicable thereto;

(2) the applicant requested in writing that the provisions of this section be applied to his patent application;

(3) the applicant provided the Office with a translation of the claims in the parallel patent, to such language as in the patent application which was submitted in Israel;

(4) the claim or claims in the application are identical to the claims in the parallel patent, but the application can include fewer claims than those in the parallel patent;

(5) the applicant submitted a description and drawings identical to those in the parallel patent, or a description and drawings as said in section 12.

(d) The Registrar and the Director of Examiners or his deputy may refrain from accepting an application, where they determined that the application does not comply with one of the provisions specified in subsection (c) or that there is some other special reason why the application should not be accepted, as based on the material at their disposal or which was submitted to them in the course of such examination.

(e) Where proceedings for cancellation of the parallel patent or

proceedings of opposition to grant of the parallel patent outside of Israel are ongoing, then the applicant shall so notify the Registrar no later than the date in which the patent is granted in Israel.

(f) For purposes of this section, "state" - including a group of states which maintain a joint system for the grant of patents.

Additional means of examination

18.

(a) The examiner shall use at least one of the following additional means of examination:

(1) the list of references used by patent Offices in any foreign state during the examination of an application with regards to a patent for the same invention submitted in a foreign state by the applicant or by his predecessor in right for such invention;

(2) a list of publications published prior to the application date, which are known to the applicant and directly relate to the invention;

(3) copies of publications and references which the applicant is required to provide under this Article, where the examiner so demands;

(4) copies of publications and references referred to in publications and references which the applicant is required to provide under this Article, where the examiner so demands;

(5) transfer of the specification of the application - for the purpose of searching material that will enable the Office to conduct such examination - to an institution in Israel or abroad, which the Office has established relations therewith under any law in a contract drawn up by the Registrar, which includes a section on keeping any patent application confidential and on nondisclosure under section 165;

(b) for the purpose of complying with the provisions of subsection (a)

(1) The examiner may require the applicant to submit to him all the documents specified in subsections (a)(1) and (2), and he may require the applicant to submit to him all the specified documents in subsections (a)(3) and (4);

(2) The examiner may request the applicant to transmit the specification of the application for the purpose of search referred to in subsection (a)(5).

(3) The examiner may use the documents enumerated in subsections (a)(1) to (4), even where such documents were submitted thereto by a person other than the applicant, and for the purpose of subsection (a)(2) even if such documents are unknown to the applicant; such documents shall be submitted by a person other the applicant only within two months from the date of the applicant's reply to the aforementioned request under paragraph (1).

Applicant's duty to inform the Office

18A. Until the application is accepted, the applicant shall keep the Office informed of any change in the list of references or publications referred to in section 18, where such changes were brought to his, or his representative's, attention.

Notice of institutions assisting in the examination

18B. The Registrar shall publish in the Official Gazette a notice of the institutions with which the Office concluded agreements under section 18(a)(5), and of the categories of applications in respect of which he intends to use the means enumerated under the aforesaid section.

Means of enforcement on examination procedures

18C. Where a misleading particular was delivered in an applicant's reply to a request under section 18, or if the applicant knowingly did not keep the Office informed of a substantive change in the list of references and publications, which he is obliged to update thereof under the provisions of section 18A, and where the patent was granted or where the application was accepted -

(1) the Court or the Registrar may do one or more of the following in a proceeding before them:

(a) cancel the patent or abstain from granting the patent;
(b) give a license to exploit the patent to any person who desires it, as if the Court or the Registrar took the place of the patentee, under terms to be determined by agreement between the parties and - if where such agreement is absent - by the Court or the Registrar, as the case may be;

(c) order the term of the patent to be shortened.

(2) The Court may impose a fine, as said in section 61(a)(1) of the Penal Law 5737-1967, on the person who delivered the misleading particular or who knowingly did not keep the Office updated on the list of publications and documents, as the case may be.

Postponement of examination

19. Where the invention, in whole or in part, is found ineligible to be patentable, due to a previous application which has not yet been published under section 16A, then the Registrar or examiner may, and where they have been requested to do so by the applicant whose application was found to be ineligible, they must instruct, that the examination of the later application be postponed until after the publication of the earlier

application under section 16A, or, if the applicant so requests, until the publication of the previous application under section 26 or until the postponement of the previous application.

Expedition of examination

19A

(a) An applicant who provides a reasonable explanation for this may submit the Commissioner with a justified application along with an affidavit supporting the facts, in order to conduct an accelerated examination; any of the following, among others, shall constitute a reasonable justification:

- (1) The applicant's advanced age or medical condition ;
- (2) A notice by the Commissioner on a possibility to expedite the examination due to an examination of a parallel application under the conditions and in the states the Commissioner notified thereof;
- (3) Another person had started exploiting the invention under the claim of the patent application, without the consent of the patentee, or there is an established concern that he may do so;
- (4) the passing of time since filing the application to the Office under section 15 or since the date of entry into the national stage under section 48D is unreasonably lengthy, and more specifically significantly lengthy time has passed as contrasted with the beginning of examination of other application of the same type.
- (5) Public interest;
- (6) Extenuating circumstances which provide justification.

(b) If an applicant filed a request for an extension or a postponement of an application of a patent which he requested to be examined in an accelerated manner, it shall be returned by the Commissioner, unless the Registrar found that an application is needed by the applicant or his representative, for the purpose of an extension, due to circumstances over which the applicant had no control and which could not be prevented;

(c) A person other than the applicant, and who is not associated with the applicant or works on his behalf, may submit to the Commissioner a justified request along with an affidavit supporting the facts, for an accelerated examination of an application that was published under section 16A, if one of the following occurs:

- (1) There is an established concern that the examination of the application of the patent according to the set order may cause the applicant of an accelerated examination application, who works in the field of the invention, a delay in the development or in the production of a product or a process claimed in the patent application under this subsection.

(2) Time elapsed since the submission of the request is unreasonably long under section 15 or from the day the request entered the national stage under section 48D, and taking into consideration any significantly lengthy time since the lapsed date up to the beginning of the examination of other application of the same type.

(3) Public interest;

(4) Extenuating circumstances which provide justification.

(d) Any request as aforesaid under subsections (a) or (c) shall be submitted to the Office along with the prescribed fees, where so prescribed, and shall include the name of the applicant and the address for delivery of documents in Israel.

(e) Where the Commissioner found that the requirements enumerated in sections (a) or (c) have been met, then an examination shall take place as close as possible to the filing date of the application for an examination, and subject to payment of the fees prescribed with regards to such examination, if so prescribed, provided that in the case of an international application that entered the national stage, the examination shall not take place before 30 months had passed from the filing date of the application or from the date of the previous application, where a priority right was requested, whichever is earlier; the examination of the application shall ensue as quickly as possible.

(f) Notwithstanding the provisions of subsection (b) and section 164, in examination of a patent application for which an application under subsection (c) was filed, no option shall be given to the applicant to postpone the examination, and no extensions shall be granted, unless the Registrar found that an extension is needed due to of circumstances over which the applicant had no control and which could not be prevented;.

(g) Where an application examined under this section has been received, then the fact thereof shall be noted in a publication under section 26 and in the register, and so will the date of the examination, as well as the date and number of any other application of the same type, examined immediately before the previous examination under this section, according to the classification used by the Office.

(h) This section does not derogate from the authority of the Registrar or examiner under section 19.

Notification of defects

20. If the Registrar or an examiner finds that an invention is not patentable or that the application does not comply with the provisions of Article One of this Chapter, then he shall inform the applicant of the grounds why the invention is not patentable or what are the defects

of the application.

Correction of defects

21. If the applicant did not, within a time prescribed by regulations, remove the grounds of the invention's not being patentable or did not correct the defects of which he was informed under section 20, then the Registrar shall refuse to accept the application

Rehearing of refusal to accept application

21A. Where the Registrar refused to accept an application under section 21, then he may - upon a request from the applicant - reconsider the refusal, provided that the application be submitted within 12 months from the day the Registrar refused to accept it as aforesaid.

Cancellation of patent application

21B. The applicant may cancel his patent application prior to the grant of the patent; however, the Registrar may cancel the revocation under conditions prescribed by him, provided that he is satisfied that the application was cancelled unlawfully.

Amendment of specification

22. The applicant may, at any time before the application is accepted, amend the specification in his application, either in consequence of a notice under section 20 or at his own initiative.

Application date after amendment

23. Where amendments of a substantive nature have been inserted to the specification, then the Registrar may determine, for the purposes of sections 4, 5 and 9 -

(1) where it is possible to distinguish between those amendments and the existing specification - that the date of the amendments is the date they were submitted to the Office;

(2) Where it is not possible to distinguish between the amendments and the existing specification, that the date of the entire application shall be the date the amendments were submitted to the Office.

Division of application

24.

(a) As long as the application has not been accepted, the applicant is entitled to demand that it be divided into several applications.

(b) If the application includes more than one invention, then the Registrar may, as long as he has not accepted the application, direct the applicant to divide his application.

(b1)

(1) In this subsection -

"examined application" - a patent application that is being examined under this subsection;

"other application" - a patent application that is not the examined application and the date of which, for purposes of section 9, precedes the examined application in respect of part of the examined application;

(2) the Registrar may instruct to divide the examined application, the other application or both applications, or to strike some of the claims in each of the said applications, all as the applicant chooses in respect of his application, and all if the following holds true for the examined application:

(a) the invention subject of the examined application was found, in whole or in part, to be unpatentable due to the existence of the other application;

(b) acceptance of the other application has yet to be published under section 26;

(c) the invention subject of the other application was found, in whole or in part, to be unpatentable due to the existence of the examined application;

(c) Subject to the provisions of section 23, the date of each of the applications divided under subsection (a) or (b) shall be the same as the application from which it was divided.

Dispute between applicants

25. If an application was submitted by more than one applicant, and if the Registrar is satisfied that the prosecution of the application is held up because of the dispute between the applicants, then he may act on the initiative of some of them on conditions prescribed by him, on condition that the initiators of the action give the applicants who are not parties thereto notice of every proceeding before the Registrar and of any amendment made in the specification; however, the Registrar shall entertain a request for cancellation of the application only with the consent of all applicants.

Publication of acceptance of application

26.

(a) Where an application has been accepted under this Article, the

Registrar shall publish the fact of acceptance thereof on the Internet.

(b) The publication shall include -

(1) the name of the invention and its category under the categories used by the Office;

(2) the applicant's name;

(3) the application date;

(4) Where a priority right was claimed for the application - the Member State in which the previous application was submitted, the filing date and the number or other identification mark given thereto by the Office wherein it was filed;

(5) Repealed;

(6) the address in Israel for delivery of notices to the applicant, as given to the Registrar;

(7) Any other particular relevant to the matter, which the Registrar believes should be included in the publication.

27. Repealed.

Acceptance of application is evidence

28. Acceptance of the application shall be conclusive evidence that it includes only one invention and that the provisions on the form of the application, the specification and the drawings have been complied with.

Amendment of specification after acceptance

29. After his application was accepted under this Article, the applicant may amend the specification in his application in the manner prescribed in Article Three of Chapter Four, as if he were a patent owner.

Article Three Opposition to Grant of Patent

Time for opposition to grant of patent

30. Any person may - within three months after the date of publication of the application under section 26 - oppose the grant of a patent by written notice to the Registrar.

Grounds for opposition

31. The following are the grounds for opposition to the grant of a patent:

(1) there is a reason, because of which the Registrar could have refused to accept the patent application;

(2) the invention is not patentable under section 4(2):

(3) the opponent, and not the applicant, is the owner of the invention.

Powers of Registrar in opposition proceeding

32.

(a) The Registrar may accept all or part of the opposition, he may reject it or he may exercise his powers under sections 18, 23 and 24 in respect of the application.

(b) If the Registrar demanded that the application be divided, then he shall not publish the separated applications under section 26.

Hearing arguments on ownership of invention

33.

(a) If opposition was submitted for grounds said in section 31(3), then the opponent may request that the patent be granted to him, and the Registrar may - in addition to any other relief - grant the patent to the person who proved that he is the owner of the invention.

(b) In proceedings under this section the Registrar may join any person whom the Registrar believes to have an interest in the matter.

Powers of Registrar after cancellation of opposition

34. If opposition was duly submitted under section 30 and was subsequently canceled, then Registrar may refuse to grant the patent applied for if, in the course of the opposition, he discovered material according to which the application should not have been accepted in the first place.

Article Four Grant of Patent

In the absence of opposition patent shall be granted

35. Where no opposition was submitted by the time set for such purpose, or where opposition was submitted and withdrawn, or was finally dismissed by the Registrar or by the Court, then the patent shall be granted to the person who is the owner of the invention at such time, unless the Registrar used his power under section 34 or unless the Registrar's decision was appealed under section 174 to dismiss the opposition, and a written notice of filing an appeal had been delivered to the Registrar no later than 10 days from the final date for submission of a said appeal.

Registration and certificate

36. The grant of the patent shall be registered in the Register and a certificate to that effect shall be given to its owner.

Reservation on responsibility

37. The examination of the application and the grant of the patent shall not be a guaranty that the patent is valid, and the State or its employees shall bear no responsibility whatsoever because the patented was granted.

38. Repealed.**Mention of the inventor's name**

39. An inventor for whose invention a patent was applied for or his survivors may demand that the inventor's name be stated in the specification, the Register and in the patent certificate, and the Registrar shall accede to the demand subject to the provisions of sections 40 and 41, on condition that the demand was submitted at the prescribed time and in the prescribed manner.

Hearing of owner of invention and patent holder

40. If the inventor or his survivors request that the inventor's name be stated when they are not the owners of the invention or of the patent, then the Registrar shall notify the owner of the invention or of the patent and - if opposition proceedings under section 30 are pending at the time - any other person who is a party to those proceedings; the Registrar shall give his decision after hearing the arguments of the persons concerned, if they so requested within the prescribed time.

Demand not acceded to

41. The Registrar shall not entertain a demand that the inventor's name be stated, if he believes that it is proper to hear it like an application, the grounds for which are as said in section 31(3) or section 73.

No stipulation not to state name

42. A stipulation by which the inventor waives the right to demand that his name be stated is void.

Statement of name does not confer right

43. If a person's name is stated as the inventor, that alone shall not entitle him to any right whatsoever to the invention or to the patent.

Article Five Patent of Addition

Patent of addition

44.

(a) If a patent holder is the owner of an invention which is an improvement or modification of an invention for which a patent (hereafter: main patent) was granted, then he may request that a patent for the second invention be granted him as a patent of addition.

(b) A patent of addition shall be granted for an invention that is patentable under subsection (a) as a patent of addition, even though it does not involve an inventive step beyond the invention covered by the main patent or by any patent of addition thereto.

(c) If an applicant submitted several applications, then he may request that the patent for one of them be granted as a main patent and the patents for the others as patents of addition thereto, and subsections (a) and (b) shall apply mutatis mutandis.

Restriction on grant of patent of addition

45. A patent of addition shall not be granted if the for it application was submitted before the date of the application for the main patent.

Grant of patent of addition to be conclusive evidence

46. The grant of a patent of addition shall be conclusive evidence that the subject matter of that patent is an improvement or modification of the main patent and that it is fit to be a patent of addition.

Term of patent of addition

47. A patent of addition shall be in effect as long as the main patent is in effect, and no fee shall be payable for it under section 56.

Effect of patent of addition if main patent is cancelled

48.

(a) If a main patent was cancelled under the provisions of Article Four in Chapter Four or of Article Two in Chapter Seven and if the patent of addition was not cancelled together with it, then the patent of addition shall become an independent patent if the owner of the patent of addition so requested, and it shall remain in effect until the end of the term during which the main patent would have been in effect, had it not been cancelled, on condition that the fees prescribed by section 56 are paid on it at the times and in the amounts which were set for the payment of fees on the main patent.

(b) If a main patent was canceled and if it had more than one patent of addition, then subsection (a) shall apply to all of them;

but -

(1) the obligation to pay fees prescribed by section 56 shall apply only to the patent of addition with the earliest application date, and all the other patents shall be deemed to be additional to it;

(2) if the patents of addition do not constitute improvements or modifications of each other, then subsection (a) shall apply to each of them separately.

CHAPTER THREE A INTERNATIONAL APPLICATIONS

48A. In this chapter -

"Convention" - the Convention of Cooperation on Patents, signed in Washington on June 19, 1970, and amended of September 28, 1979, and on February 3, 1984, including the regulations to the Convention, as they were published in their current version on the World Intellectual Property Organization (WIPO)'s website *in this law - the regulations for the convention); the Convention is available in the Office for inspection by the public.

"International application" - a patent application submitted under the Convention, even if it does not address Israel under section 4(1)(ii) of the Convention;

"International Office" - within its meaning in section 2 of the Convention;

"Addressed Office" - a national Office or an international organization, to which an application is submitted in accordance with section 2 of the Convention;

"International application addressed to Israel" - an international application submitted in Israel or in another country, which the applicant addressed to Israel under section 4(1)(ii) of the Convention.

"International search report" - a report produced according to article 15 of the Convention, on the basis of claims included in the international application, in reference to the invention specification included in the application and any attached drawings, for the purpose of discovering any previous publications under the meaning of the regulations of Convention;

"Preliminary Examination Report" - a preliminary examination performed on the basis of novelty, inventive step and industrial applicability which is subject of the international examination, under section 33 of the Convention.

"Supplementary Written Opinion" - A written opinion as to the novelty, inventive step and industrial applicability of the invention which is the subject of the international application, as aforesaid in rule 43bis of the Convention

"International Searching Authority" - a national office or an international organization whose tasks include the establishing of a documentary search reports, as aforesaid in article 16 of the Convention.

"national Preliminary Examining Authority" - a national office or an international organization, whose tasks include producing preliminary examination reports, as aforesaid in article 32 of the Convention.

Submission of application

48B.

(a) The Office shall serve as an addressed Office for applications submitted by Israeli nationals and residents, and it shall handle such applications and collect the fees set forth by the Convention, all as provided by the Convention.

(b) The Registrar shall publish in the Official Gazette the particulars and amounts of the fees set forth in the Convention, as may take effect from time to time; every amount under subsection (a) shall be collected and transmitted to the institutions and authorities prescribed in accordance with the provisions of the Convention and any other law.

(c) An international application submitted to the Office or to a receiving Office in another state shall - for purposes of sections 98 and 103 - be deemed an application submitted abroad.

(d) In this section, "institutions and authorities" includes the Office.

Provisions on applications

48C. The provisions of this Law shall apply to applications addressed to Israel, with the changes specified in this Chapter and with the changes specified below:

(1) the provisions of sections 11, 14, 15, 17(a) and 20 shall not apply;

(2) the provisions of section 16 shall apply to an application, in respect of which the applicant met the conditions prescribed in section 48D;

(3) the date of the application shall be determined in accordance with the provisions of the Convention;

(4) the provisions of section 165(a) shall not apply to information published under the Convention in respect of applications;

Entering the national stage

48D.

(a) An applicant who filed an application which designates Israel, shall pay the national fee prescribed under section 194 and is mentioned in section 22 or in section 39 of the Convention (hereafter - national fee);

(b) An applicant who filed an application which designates Israel shall be deemed to have withdrawn his application, where he did not pay the fees prescribed in the Convention or the national fee by the times set in the Convention or in regulations, or where he did not fulfill one of the acts specified below by the prescribed time:

(1) delivered a copy of the application to the Office, unless a copy was delivered to the Office in accordance with the provisions of the Convention;

(2) Delivered a certified English translation of the application, where the application was not filed or was not published in English.

(c) The Registrar may - only under the provisions of section 48 of the Convention - extend the times set under this section; however, for purposes of subsection (b) (2) the Registrar may extend the term to up to three months, and under the provisions of section 48 of the Convention alone he may extend the term for a longer period.

Documents, amendments and fees

48E. Any applicant who complied with the provisions of section 48D, shall submit the documents to the Office, make corrections in the documents and pay the fees, all as the Minister of Justice shall prescribe with approval by the Knesset Constitution, Law and Justice Committee.

Examination of application

48F.

(a) The examination of an international application shall ensue at the end of the period set under section 48D for payment of the national fee, but the Registrar may order that examination of an application begin earlier, where the applicant so requested in writing and provided that he complied with the provisions of this Chapter.

(b) An application shall not be accepted and shall not be dismissed before the end of the period set in sections 28 and 41 of the Convention, except by the applicant's written consent.

(c) The examiner shall examine whether all the following apply in respect of an application:

- (1) the invention in the application is patentable under Chapter Two;
- (2) the provisions of sections 12, 13 and 48D have been complied with;
- (3) Repealed.

(d) Where the examiner finds that the provisions of this section have been complied with, then he shall accept the application and he shall so notify the applicant; the date of acceptance shall be stated in the notice.

Notice of shortcomings

48G.

(a) Where the examiner concluded that the invention in an application is not patentable, or that the provisions of sections 12, 13 and 48D have not been complied with, then he shall inform the applicant of the grounds of the invention's non-patentability or of the shortcomings in the application, as the case may be.

(b) A notice under subsection (a) shall be treated, for purposes of section 21, like a notice under section 20.

Hearing before Registrar

48H.

(a) Where a receiving Office refused to grant an international filing date to an application which designates Israel, or where a receiving Office or an International Office determined that it deems the applicant to have withdrawn his application or to have removed Israel as a designated country from his application, and where the application requested the Registrar in writing that he cancel such dismissal or determination, then the Registrar shall hold a hearing on the matter.

(b) Where the Registrar is satisfied that the dismissal or determination said in subsection (a) was due to an error or omission by a receiving Office or an International Office, then he may, as the case may be -

- (1) treat the application as if the error or omission was not committed on therein and give the application an international submission date;
- (2) Deem the applicant as not having withdrawn his application or as not having removed Israel as a designated country from his application.

The international searching authority and the international preliminary examination authority

48I.

(a) The Office shall serve as an international searching authority and an international preliminary examination authority, in respect to international applications requested by Israeli national, residents therein or corporations incorporated in Israel, in accordance with the Convention, the agreement signed with the international authority under section 16(3) (b) of the Convention, available for public inspection in its' website (in this chapter - the agreement), and for the provisions of this chapter.

(b) Without derogating from the provisions of subsection (a), the Office shall serve as an international searching authority and an international preliminary examination authority also for international applications filed by a national or resident of a country listed in the annex of the agreement or a corporation incorporated in such aforesaid country; the Registrar shall publish in the Official Gazette the list of aforementioned countries.

Application to produce an international search report

48J.

(a) The examiner shall produce an international search report and a supplementary opinion upon receiving an application for an international search report concerning an international application, unless he believes one of the following occurs:

(1) The international application appertains to a field in which the Office does not perform searches in accordance to the provisions of the Convention and the agreement;

(2) The description of the invention, the claims or the drawings do not allow for a significant search

(b) If the examiner believed an international report should not be produced for the reasons set forth in subsection (a), he shall notify the applicant and the international bureau along with the justifications for doing so, and shall thereof produce only a supplementary opinion concerning the international application.

(c) If the aforesaid in paragraphs (1) or (2) of subsection (a) occurred only for some of the claims included in the international application, the examiner shall produce an international search report and a supplementary opinion for the remaining claims included in the report, and will cite in the report and the opinion that they produced only for some of the claims included in the application.

(d) If the examiner noticed that an international application, for which a request to produce an international search report under subsection (a) was submitted, includes more than one invention, he shall notify the applicant and request he pay an additional fee (in this section – the additional fee).

(e)

(1) If the additional fee was paid for, in part or in whole, in the period stipulated by the Convention, then the examination report and the supplementary opinion will treat inventions defined by the claims included in the international application for which the aforesaid fee was paid;

(2) If the additional fee was not paid in the period stipulated in paragraph (1), the examiner shall produce an international search report and a supplementary opinion for the first invention in the claims included in the international application.

Application to produce a preliminary search report

48K.

(a) Where an application to produce a preliminary search report about

an international application was submitted to the Office, but only after the international application to produce an international search report was submitted, then the examiner shall produce a preliminary examination report concerning the international application, unless he believes one of the following has occurred:

(1) The international application appertains to a field in which the Office does not perform preliminary examinations in accordance with the provisions of the Convention and the Agreement.

(2) The description of the invention, the claims or the drawings do not allow for the production of a substantive preliminary examination report

(b) Where the examiner believes a preliminary examination report should not be produced for the reasons set forth in subsection (a), he shall so notify the applicant along with the justifications for doing so.

(c) Where the aforesaid in paragraphs (1) or (2) of subsection (a) occurred only for some of the claims included in the international application, then the examiner shall produce a preliminary examination report for the remaining claims included in the application, and shall cite in the report that they were produced only for some of the claims included in the application.

(d) Where the examiner noticed that an international application, for which a request to produce a preliminary examination report under subsection (a) was submitted, includes more than one invention, he shall notify the applicant and request he reduces the number of claims or pay an additional fee (in this section - the additional fee).

(e)

(1) If the number of claims was reduced or additional fee was paid for, in part or in whole, in the period stipulated by the Convention, then the preliminary examination report will treat inventions defined by the claims included in the international application for which the aforesaid fee was paid;

(2) If the number of claims was not reduced or the additional fee was not paid in the period stipulated in paragraph (1), the examiner shall produce a preliminary examination report only for those sections treating the primary invention in the application.

Objection to a decision of the examiner that an international application includes more than one claim

48L.

(a) An applicant that was notified by virtue of sections 48J(d) or 48K(d), may object to the decision of the examiner, in accordance with the provisions of section 161 (in this section - the objection)

(b) The Registrar may delegate his authority to deliberate on the objection to an employee of the Office or a body consisting of several employees of the Office, as prescribed by the Minister of Justice.

(c) Where such person who deliberated on the objection found that it was indeed justified, then these provisions shall apply, as the case may be:

(1) Where the applicant paid the fee prescribed in sections 48J(e) (1) or 48k(e) (1), then the examiner shall produce an international search report or a preliminary examination report, as appropriate, concerning all claims included in the international application.

(2) Where the applicant did not pay the additional fee as aforesaid in section 48J(e) (2) or 48K(e) (2), then the examiner shall produce an international search report or a preliminary examination report, as appropriate, for all claims included in the international application.

Relying on an international search report, a supplementary opinion and a preliminary examination report for deeming a patent patentable

48M. An international search report, a supplementary opinion and a preliminary examination report produced with regards to an international application, shall not oblige the examiner with respect to an examination under section 48F(c) (1) for such application; however, the examiner may rely thereon for purpose of such examination.

CHAPTER FOUR THE PATENT, ITS MODIFICATION AND CANCELLATION

Article One Rights That Derive from a Patent

Rights of Patent holder and restrictions on exploitation of patent

49.

(a) A patentee is entitled to prevent any other person from exploiting without consent or unlawfully the invention for which the patent has been granted, either in the manner prescribed in the claims or in any manner which involves the essence of the invention subject matter of the patent, in light of the definition in such claims (hereafter - infringement).

(b) The grant of a patent does not constitute permission to exploit any invention unlawfully or in a manner that constitutes infringement of any existing rights under any law.

Applicability of patent

50.

(a) Where the invention constitutes a process, then the patent shall apply also to the direct product of such process.

(b) For purpose of an invention that is a production process - in a action for infringement the defendant must prove that the process used by him for the production of an identical product differs from the patent protected process; for purposes of this subsection, an identical product which was produced without the consent of the patentee shall, unless otherwise proven, be deemed a product produced by a patent protected process, where the following two conditions apply:

(1) the patentee cannot find out by reasonable efforts which production process was actually used to produce the identical product;

(2) it is highly reasonable that the identical product was produced by the patent protected process.

Effect of patent against the State

51. A patent is in effect against the State, subject to the provisions of Chapter Six; however, the provisions of the Civil Procedure Amendment (The State as a Party) Law, 5718-1958, shall apply.

Term of Patent

52. The term of a patent shall be twenty years from the application date.

Right based on prior exploitation

53. Any person, who would have exploited on the determining date, in good

faith, in Israel, the invention for which the patent is sought, or if he in good faith made actual preparations towards exploitation, then he shall be entitled to exploit the invention himself and in the course of his business without consideration; for the purpose of this provision, the "determining date" is the date on which application for the patent was submitted in Israel or - if priority right under section 10 is claimed for such application - the filing date of the previous application whereon the claim for priority right relies.

Transfer of exploitation right

54. The right under section 53 shall not be transferred, devolved or transmitted by inheritance, except along with such business as such invention was used therein.

Experimental act in order to obtain license

54A. An experimental act, which is part of an effort to obtain a license to market the product after the patent has lapsed, does not constitute "exploitation of an invention", if the following two conditions are met:

- (1) the effort to obtain a license is made in order to obtain a license in Israel or in a country, in which an experimental act on a patent protected invention for the purpose of obtaining a license is permitted before the patent lapses;
- (2) any product produced under the terms of this section is not used - both while the patent is in effect or thereafter - for any purpose other than obtaining a license as aforesaid;

for purposes of this section, "license" - certification, permit or any other document required under Law in order to market the product.

Right of the State by virtue of an earlier invention

55.

(a) The State may exploit an invention for which a patent was granted to another person to the extent necessary for its requirements and without paying royalties or other compensation to the patent holder or to holders of other right in the patent, if -

- (1) it is also a service invention, as said in section 132, invented by an employee who must give notice under section 137 before the date on which the patent application is submitted, and if priority right is claimed for that application under section 10, then before the date of the application abroad;
- (2) no protection was claimed in Israel or elsewhere for the service invention said in paragraph (1), either by the inventor, by the State

or by a person to whom rights in the invention were transferred;
(3) before the date said in paragraph (1) the service invention was registered in the Registers prescribed therefor and in the manner prescribed.

(b) The provision of subsection (a) shall also apply to an invention made by a person who does not have to give notice under section 137, if the rights to it were transferred to the State and the other conditions said in that subsection have been complied with in its respect.

(c) If the State is allowed to exploit an invention under subsection (a), then the Government may permit its exploitation - only for the requirements of the State - also by a person who acts under a contract with the State.

(d) The provisions of this section shall not derogate from the rights of a State employee under Chapter Eight, from rights by virtue of an agreement or from rights granted to a person who transferred the invention to the State.

Article Two Effect is Conditional on Payment of Fees

Payment of fees

56. A patent shall be in effect for the entire period prescribed under section 52, where the patentee paid the fee prescribed (hereafter - renewal fee) with approval by the Knesset Finance Committee at the times prescribed as aforesaid; Where the fees have not been paid, then the effect of the patent shall lapse at the time prescribed for payment of the fee.

Extension of time for payment of fees

57. If a renewal fee was not paid at the time prescribed for its payment, then it may be paid within six months thereafter with the addition of a fee in a prescribed amount, and when that has been done the fee shall be deemed to have been paid at the time prescribed for its payment under section 56 and the patent shall be deemed not to have lapsed.

Publication of lapse of patent

58. Where the period under section 57 has lapsed and the fee has not been paid as said under the section, then the Registrar shall publish in the Official Gazette a notice that the effect of the patent has lapsed.

Reinstatement of patent lapsed for non-payment of fee

59. The owner of a patent which lapsed for non-payment of a renewal fee may apply to the Registrar, in the manner and form prescribed, that the patent be reinstated, on condition that he pay the special fee prescribed

for that purpose when he submits the application (hereafter: reinstatement application).

Publication of application for reinstatement of patent

60. Where the Registrar is satisfied that the renewal fee was not paid due to a reasonable cause, that the patentee did not intend that the effect of the patent lapse, and that the application for restoration of effect of the patent was submitted as soon after the fact of nonpayment had become known to the patentee or to any such person who is responsible on his behalf for payment of the fee, then he shall instruct of publication of the application in the Official Gazette upon the payment of any unpaid renewal fees by the applicant.

Opposition to reinstatement

61. Any person may oppose the reinstatement of an application within three months after the date of publication, on the grounds that the Registrar had no basis for ordering publication of the application in the Official Gazette.

Hearing of application for reinstatement

62. If no opposition was submitted or if opposition was submitted, but was rejected, then the Registrar shall make an order for reinstatement and he may make the reinstatement subject to conditions which he shall prescribe.

Use of invention the patent for which had lapsed and is subsequently reinstated

63. If a person began to exploit in Israel an invention on which the patent lapsed after the lapse of the patent was published under section 58, or if a person after that date made actual preparations for its exploitation, then he shall be entitled to continue to exploit the invention only for the requirements of his business, even after the patent is reinstated.

Transfer of right of exploitation

64. The right to exploit an invention under section 63 cannot be transferred, devolved or transmitted by inheritance, except together with the business in which that invention was used.

Article Two A Extension of Period of Protection

Definitions

64A. In this Article -

"medical preparation" - any form of therapeutic drugs that underwent processing, including a preparation for use in veterinary medicine and a preparation of nutritional value intended to be injected intravenously;
"material" - the active component of a medical preparation or salts, esters, hydrates or crystal forms of that component;

"marketing permit" - marketing permit for medical preparation or medical equipment protected by a reference patent;

"the basic patent" - the patent that protects any material, including a process for the production of a material, use of a material, a medical preparation that incorporates a material, a process for the production of a medical preparation that incorporates a material or medical equipment that requires a license in Israel (hereafter: medical equipment);

"recognized state" - a state enumerated in Schedule One;

"recognized European state" - A state enumerated in part B of Schedule One

"reference patent" - any patent in a recognized state, which protects the material, the process for the production of the material or the use of the material, or the medical preparation that incorporates the material, or the process for the production of the medical preparation that incorporates the material, or the medical equipment, which is claimed in a basic patent in Israel, whether or not the said patent parallels the Israel patent;

"extension order on a reference patent" - an order or permit approving an extension, of a day or more, of the term of a reference patent regarding medical preparation containing the material or regarding medical equipment, which is protected by the reference patent, to which one of the following applies:

(1) It was granted in the United States of America (Patent Term Extension), and the term of effect thereof is determined by an authority accredited to do so in accordance with the term of review for the purpose of providing the first marketing license by the authority accredited to provide marketing licenses. The extension shall take effect after the reference patent was granted, deducting any period of time regarding which it was determined that during such review period the applicant of the extension order did not assert immediacy, all while adding half of the clinical trial term for medical preparation or medical equipment protected by the reference patent;

(2) It was granted in a recognized European state (Supplementary Protection Certificate) and the term of effect thereof is determined considering to the time passed since the filing date for the reference patent and up to the granting date of the first marketing license, deducing 5 years;

(3) It was granted in a recognized state and was designated to temporarily extend the reference patent term until the decision on issuing an order under paragraphs (1) or (2) or until an earlier date scheduled therein (hereafter - temporary order).

"licensing" - as defined in section 54A.

Extension of basic patent

64B. Where the Registrar is satisfied that the conditions specified in this Article have been met, then he shall, by order, extend the term of the effect of a patent in accordance with the provisions of this Article (hereafter: extension order), on condition that -

- (1) the application for the extension order was submitted in good faith;
- (2) the extent of protection afforded by the extension order not be greater than the protection afforded by the basic patent.

Application for extension of basic patent

64C.

(a) The applicant for a basic patent, the owner of a basic patent and the owner of an exclusive license in a basic patent or in an application for a basic patent may apply for an extension.

(b) Extension order in respect of a basic patent or an application for a basic patent that is held jointly can be applied for by each partner..

(c) Where the applicant for a basic patent, a patentee, some of the partners or the owner of an exclusive license did not join the application for the grant of an extension order, then they shall be joined as respondents by the applicant of the extension order (in this article - the applicant).

(d) Where a person was joined as a respondent under this section and did not take part in the proceedings, then he shall not have to pay costs.

(e) As soon after an application for an extension order was submitted, the Registrar shall publish a notice of the submission of the application in the Official Gazette; the notice shall include the applicant's name, the date of the application and the number of the basic patent, to which the requested extension order relates.

Conditions for grant of extension order

64D. The Registrar shall not grant an extension order, unless all the

following conditions have been met:

- (1) the material, the process for production or the use thereof, the medical preparation that incorporates the material or the process for production thereof, or the medical equipment claimed in the basic patent and the basic patent remains in effect;
- (2) in respect of a medical preparation - a medical preparation that incorporates the material is registered in the Register of Medical Preparations according to section 47A of the Pharmacists Ordinance [New Version] 5741-1981 (hereafter: the Pharmacists Ordinance);
- (3) the registration said in paragraph (2) is the first registration that allows the material to be used in Israel for medical purposes;
- (4) no extension order was granted previously in respect of the basic patent or in respect of the material;
- (5) Where a marketing permit was granted in the United States of America - a reference patent extension order was also granted in the United states of America, and has yet to expire;
- (6) Where a marketing permit was granted in a recognized European state - a reference patent extension order was also granted in the same state, and has yet to expire;
- (7) Where a marketing permit was granted in the United States of America and in at least one of the recognized European state - a reference patent extension order was also granted in the United States of America and the same recognized European state, and has yet to expire.

Review of application to grant extension

64E.

(a) When an application for an extension order has been submitted in the manner prescribed in regulations by a person entitled to submit it, then the Registrar shall begin to examine it within 60 days of submission.

(b) Notwithstanding subsection (a), when an application for an extension order has been submitted as prescribed under the corresponding subsection prior to the grant of the basic patent, then the application for an extension order shall not be examine before the basic patent is granted, and the following shall apply:

(1) Examination of the application for a basic patent shall begin within 30 days from the filing date for an extension order, and shall be completed as soon as possible, and to do so, the Commissioner may shorten any term prescribed in this law or in accordance therewith;

(2) Where the list of references or the list of prior art were not submitted as aforesaid under section 18 before the filing date for grant of extension order, then the applicant shall submit them along with his application

for an extension order.

(c) Where the Commissioner noticed, or it was brought to his attention, that the requirements prescribed in this article were met, then he shall publish, within 60 days from completing the examination of the application to grant an extension order, a notification to that effect on the Internet, of his intention to grant an extension order and of the period wherein the order shall take effect.

(d) Where the Commissioner noticed, or it was brought to his attention, that the requirements prescribed in this article were not met, then he shall publish, within 60 days from completing the examination of application to grant an extension order, a notification on the dismissal of the application for an extension order.

(e) Notwithstanding the provisions of subsection (d), where the Registrar noticed, or it was brought to his attention, that the requirements prescribed under paragraphs (1) to (4) in section 64D were met, that a marketing permit was granted in the United States of America or at least in one recognized European state, or both, and that orders for the extension of the reference patent have yet to be granted as aforesaid in paragraphs (5), (6) or (7) in section 64D, respectively, the following shall apply:

(1) The Registrar shall publish a notification in the Internet within 60 days from the day he noticed the aforesaid conditions were met and that orders have yet to be granted for the extension of the reference patent as said, of his intention to grant an extension order and of the order's period of effect, on the condition the orders for the extension of the reference patent shall be granted during the basic patent's term of effect.

(2) If the orders for the extension of the reference patent are granted as said, or if the application to grant them was definitively denied, then the applicant shall notify the Commissioner to that fact within 90 days from the day the orders were granted or denied, respectively.

(3) If the Commissioner noticed the orders for the extension of the reference patent were granted before the end of the basic patent term, as aforesaid, then he shall publish a notification in accordance with subsection (c) (in this article – a supplementary notice) on the Internet, within 60 days, even if the applicant's notification on the grant of the orders, under paragraph (2) was delivered to the Commissioner after the end of the basic patent's term, and provided that it was delivered within the ninety days prescribed for delivery as said in the same paragraph; the provisions of this paragraph shall not apply if a supplementary notice had already been published regarding the basic patent, and it has yet

to expire under section 64J(3) .

(4) If the Commissioner noticed, or it was brought to his attention, that the orders for extension of the reference patent were not granted before the end of the basic patent's term, as aforesaid, or that the applicant did not notify him as to the fact the orders for the extension of the reference patent were granted, as said in paragraph (2), then an extension order, permanent or temporary, shall not be granted, and the Commissioner shall publish a notification within 60 days from the end of the basic patent's term or from the end of the term prescribed in paragraph (2), whichever is later, as to the revocation of intent intention to grant an order under paragraph (1) .

(g) In the notification of his intention to grant an extension order under subsection (c) or (e) (1) or (3), the Commissioner shall indicate the period of effect of the order under the provisions of section 64I(a), as based on information at his disposal, if there is any, on the date examination of the application for grant of extension order was completed under the same subsection, as the matter may be; the provisions of this subsection shall not detract from the provisions of section 64I and 64J.

Opposition

64F. Any person has the right to oppose before the Registrar the grant of an extension order and the period during which the order will be in effect; opposition shall be by the delivery of a notice to the Registrar within three months after the day on which the notice under the provisions of section 64E(c) or (e) (1) or (3) was published, as appropriate.

Grounds for opposition

64G.

(a) Any reason, on the basis of which the Registrar has the power not to grant an extension order or to change the period of the effect of an extension order, as requested in the application for the order, is grounds for opposition to the issue of the order or to the period of its effect, as the case may be.

(b) Notwithstanding subsection (a), the ground for opposition to the issue of the order or to the period of its effect as published in the Commissioner's supplementary notice under section 64E(e)(3), will appertain only to standing extension orders for reference patents, not for any ground that could have been argued during the opposition to the notification on intention to grant an extension order under section 64E(e) (1) .

Grant of extension order

64H.

(a) The Registrar shall grant an extension order if no opposition was submitted until the end of the time prescribed for its submission, and if opposition was submitted - according to these provisions:

(1) if opposition was submitted against the issue of the extension order - then the Registrar shall grant an extension order if the opposition was cancelled or finally rejected by the Registrar or by the Court;

(2) if opposition was submitted against the period of the effect of the extension order - then the Registrar shall grant an extension order after a final decision about the opposition was made by the Registrar or by the Court.

(b) An extension order shall go into effect at the end of the basic patent term as said in section 52.

(c) An extension order shall be registered in the Register.

(d) If the Registrar granted an extension order, then the holder of the basic patent may - during the period in which the extension order is in effect - prevent any person from marketing or from producing in order to market without his permission the medical equipment or the medical preparation that incorporates the material, as far as the material, the process of its production, its use or the medical preparation or the process for its production were claimed in the claims for the basic patent.

(e) If an extension order was violated in contravention of the provisions of subsection (d) (hereafter: extension order violation), then the holder of the basic patent or the holder of the exclusive license shall be entitled to all the remedies prescribed in section 183 and the provisions of Chapter Eleven shall apply to the violation of the extension order, mutatis mutandis as the case may be.

(f) An extension order shall not give any rights whatsoever apart from the rights specified in this section.

Term of effect of extension order

64I.

(a) An extension order shall be in effect, subject to the provisions of section 64J, during a period equal to the shortest extension period among the extension periods granted the reference patent by the force of the reference patent extension order, with the exception of a temporary order, in recognized states; however, the aforesaid extension periods will not include periods that are not enumerated in paragraphs (1) and (2) of the definition "extension order on a reference patent".

(b) If a license was applied for only in Israel, then the extension order

shall be in effect for a period that is equal to the period from the day on which the application for a license was submitted and until the license was given; on condition that the application on the applicant's behalf was submitted and handled in good faith and with appropriate dispatch.

Limits on term

64J. Notwithstanding the provisions of section 64I -

(1) the term of effect of an extension order shall not exceed five years beyond the term stated in section 52;

(2) the total of the term of the patent and of the term of the extension order, in the aggregate - for a material, for its production process, for its use, for the medical preparation that incorporates it, for the process of its production or for the medical equipment under the basic patent and under an extension order together - shall end no later than 14 years after the earliest date on which a license was received in one of the recognized states;

(3) the term of effect of the extension order or of a notice on the intention to grant an extension order, under section 64E(c) or (e) (3), shall lapse no later than the first date on which the extension period in respect of the reference patent lapses or any reference patent was revoked in one of the recognized states, excluding any exchange of a temporary order with a non- permanent order,

Cancellation of extension order and change of the period of its effect

64K. The Registrar may, on application by a person who is not the holder of the basic patent or of an exclusive license, cancel an extension order or change the period of its effect, if he concludes that there are grounds on which it is possible to oppose the grant of the extension order or the matter of the period of its effect; the Laws of prescription shall not apply to an application for cancellation under this section.

Application to cancel and change a period of effect in the course of legal proceedings

64K1.

(a) If an application is submitted to cancel an extension order or to change the period of its effect while proceedings for a violation of the extension order are pending before the Court, then the Registrar shall hear it only if the Court so permits; when permission has been given, the Registrar shall decide the application after he has given all parties to that proceeding an opportunity to present their arguments to him.

(b) If proceedings for the violation of an extension order were initiated

before a Court, after an application to cancel the extension order or to change the period of its effect was submitted to the Registrar, then the Registrar shall continue to hear the application, unless the Court ordered otherwise for this purpose.

Lapse of extension order and a notice on the intention to grant an extension

64L. Extension order term of effect and notice on the intention to grant an extension will lapse in each of the following instances:

- (1) on the day on which the period said in section 64I ends, subject to the provisions of section 64J;
- (2) if the holder of the basic patent did not pay a fee under section 64M - at the end of the time for paying the said fee;
- (3) if registration of the medical preparation that incorporates the material was canceled - on the day on which the registration was canceled;
- (4) if the basic patent was canceled, or if it was amended so that the material, the production process, the use of the material, the medical preparation that incorporates the material or the process for its production, all of them together, or the medical equipment are no longer protected under the patent - from the day on which the cancellation or amendment went into effect.

Fees

64M.

(a) The holder of a basic patent shall pay fees in respect of an extension order (hereafter: extension order fees) at times and in amounts to be prescribed in regulations; if the fee was not paid, then the order shall lapse at the time prescribed for paying the fee.

(b) The provisions of sections 57 to 64 shall apply to fees under subsection (a), with the term "extension order" replacing "patent" and the term "extension order fees" replacing "renewal fees".

64N. Repealed.

Times

64O.

(a) An application for the grant of an extension order shall be submitted in the prescribed manner, after the fee has been paid and not later than ninety days from the registration day of the medical preparation under the Pharmacists Regulations.

(a1) If any missing details or errors were found in the application to grant extension, then the Commissioner shall notify the applicant to that

effect, and the applicant shall submit the missing information or rectify the errors within two months from the day of notification; if the applicant did not submit the missing information or rectify the error within said period, then the Commissioner will refuse the application for grant of extension.

(b) The Commissioner will complete the review of the application for grant of extension within 60 days from the date to begin the review, subject to section 64E(a) or from the date in which the applicant submitted the missing information or rectified the relevant errors, as said under subsection (a1), whichever is latest.

(c) The Commissioner shall decide on the issue of opposition to the grant of an extension or on the matter of the term of its period, within a year from the date the opposition was submitted.

(d) Without derogating from the provisions of section 64E(e), and notwithstanding section 64D(1), the Commissioner shall complete the review of the application as said in subsection (b); if an opposition was submitted, he shall make a decision subject to subsection (c), insofar as possible, no later than the end of the term of the basic patent, and for that purpose he may shorten any time prescribed in or under this article.

Publication

64P. The Registrar shall publish notice in Internet, concerning-

(1) submission of an application for the grant of an extension order; as said in section 64C(e);

(1a) Intention to grant an extension order and the term for which it will take effect, as aforesaid under section 64E;

(2) the grant of an extension order and the period of its effect;

(2a) cancellation of an extension order or the change of the period of its effect;

(3) The lapse of an extension order or a notification of intention to grant an extension order

(4) Repealed

(5) Notification on refusal of an application for an extension order or on the revocation of notification to grant an extension order.

64Q. Repealed.

Article Three Amendment of Patent

Right to Amend

65. A patent holder may apply to have the patent specification amended in order to clarify it, to eliminate a mistake in the specification or to restrict the claims.

Condition of amendment

66. The Registrar shall permit an amendment if he is satisfied that it will not result in a broadening of the scope of claims in the specification and will not add anything to the specification, which in essence was not included in it from the start; notice that permission for the amendment was granted shall be published in the Official Gazette.

Opposition to amendment

67. Any person may oppose before the Registrar the grant of permission to amend a specification; opposition shall be by delivery of a notice to the Registrar within three months after the notice of the grant of permission to amend was published.

Grounds for opposition

68. The following are the grounds for opposition to the grant of permission to amend:

- (1) there is a reason why the Registrar was entitled to refuse permission to amend;
- (2) the amendment does not achieve the purpose for which it was requested.

Correction of clerical error

69.

(a) A patent holder may apply for the correction of a clerical error in the specification, and the Registrar shall permit the correction if he is satisfied that it only corrects a clerical error.

(b) The Registrar may, at his own initiative and with the patent holder's consent, correct a clerical error which he found in the specification.

Application for amendment during legal proceedings

70.

(a) If an application was submitted for the amendment of a patent while proceedings for an infringement or for the cancellation of that patent are pending before the Court, then the Registrar shall deal with the application only with permission by the Court.

(b) If the permission is given, then the Registrar shall decide on the application after he has given all the parties to those proceedings an opportunity to bring their arguments before him.

(c) If Court proceedings for infringement of a patent are instituted after an application for the amendment of the specification was submitted to the Registrar, then the Registrar shall continue to hear the application if the Court made no other order on that matter.

Registration of amendment

71. If no opposition to the amendment was submitted, or if it was submitted and was rejected by a decision of the Registrar or by final judgment, or if permission to amend the specification was given by the Court under section 190, then the Registrar shall enter the amendment in the Register, and from the date of the entry the amended specification shall be treated as if it had been accepted in that form from the outset.

Acceptance of amendment is conclusive evidence of its validity

72. The registration of the amendment is conclusive evidence that the amendment is permissible under section 66, unless it was obtained fraudulently.

Article Four Cancellation or Revocation of Patent on Patent Holder's Application

Revocation or cancellation of patent on patent holder's application

73.

(a) A patent holder may apply to the Registrar that he revoke or cancel a patent granted to him.

(b) The Registrar shall - at the applicant's expense - publish in the Internet the application to revoke or cancel a patent under this section.

(c) If a person deems himself injured by an application to revoke or cancel a patent under this section, then he may - in a manner to be prescribed - submit to the Registrar opposition within three months after the application was published, and if the application was published more than once, then after the day of the last publication.

(d) If no opposition was submitted under subsection (c), then the Registrar shall revoke or cancel the patent, all as the patent holder requested.

(e) If opposition was submitted and it was cancelled, rejected or accepted in part by the Registrar in the decision that concluded the hearing before him, then the Registrar shall revoke or cancel the patent, unless an appeal was submitted against the Registrar's decision and notice as said in

section 35 was given not later than the time prescribed under that section.
(f) If an application for revocation or cancellation was submitted by the patent holder while proceedings on the patent are pending in Court, then the Registrar shall decide whether to revoke or cancel the patent; the provisions of subsections (a) to (e) shall also apply to an application under this subsection.

(f) The Registrar shall publish in the Internet notice of a patent's cancellation or revocation.

Effect of cancellation or revocation

73A.

(a) If a patent was finally cancelled on the patent holder's application, then the Registrar shall enter the cancellation in the Register and the patent shall be treated as if it had never been granted.

(b) If a patent was finally revoked on the patent holder's application, then the Registrar shall enter the revocation in the Register and the patent shall be treated as revoked on the day on which the application under section 73(a) was submitted.

Article Five Cancellation of Patent on Application by Person Who is Not the Patent Holder

Cancellation of patent on application by person who is not the patent holder

73B. The Registrar may, on application by any person who is not the patent holder, cancel a patent, if he found that there are grounds on which it was possible to oppose granting the patent; the Laws of prescription shall not apply on an application for cancellation under this section.

Proceedings before Registrar on application that is pending in Court

74.

(a) If an application for revocation under Article Four, or an application for cancellation under Article Four or under this Article is submitted to the Registrar while Court proceedings for infringement or cancellation of that same patent are pending, then the Registrar shall hear it only with permission by the Court.

(b) If permission is given, then the Registrar shall decide on the application after he has given all the parties to those proceedings an opportunity to state their arguments before him.

(c) If Court proceedings for infringement of a patent were instituted after an application for its cancellation or an application for its

revocation was submitted to the Registrar, then the Registrar shall continue to hear the application if the Court made no other order on that matter.

Effect and registration of cancellation order

75.

(a) A cancellation order under this Article shall go into effect at the end of thirty days after the period for submitting appeal against it; however, if an appeal against it was submitted, then the Court may postpone its coming into effect, or it may set conditions for its coming into effect or for the postponement, as it deems proper.

(b) When a patent has been finally cancelled under this Article or under section 182, then the Registrar shall enter the fact of the cancellation in the Register, and the patent shall be treated as if it had not been granted.

CHAPTER FIVE OWNERSHIP OF PATENTS

Presumption of ownership of invention

76. The person who submitted a patent application deemed the owner of the invention, as long as the contrary has not been proven.

Joint ownership

77.

(a) An invention or patent may be in the joint ownership of several persons jointly.

(b) If an invention or patent has several owners, then they shall be deemed - for purposes of their mutual rights - owners of equal shares, unless a different apportionment is laid down by a written agreement between them or by virtue of Law.

Right of partner to a patent

78. Each of the partners in the ownership of a patent is entitled to exploit the invention that is the subject of the patent in a reasonable manner, unless there is a different provision in the written agreements between them or by virtue of Law; however, if a said exploitation prevents such exploitation by another partner, then the partners have the option of demanding from the exploiting partner appropriate royalties or their share of the profits derived by him.

Right of person who acquired from one partner to a patent

79. If a person in good faith acquires from one of the partners a product for which there is a jointly owned patent, or a product produced by a process protected by a said patent, then he shall be treated like a person who acquired the product from a sole patent holder; if person alleges that the acquisition was not in good faith, then he shall bear the burden of proof.

Transfer of ownership of jointly owned patent

80. Each of the partners to a patent may transfer ownership of his share without the consent of the other partners, unless the parties agreed otherwise between them and the fact of the agreement was entered in the Register.

Power of Court to issue directions to joint owners

81.

(a) On application by some of the partners to a patent, the Court may

order the other partners to perform certain acts for the exploitation of the patent or of any right therein, to grant a license for it, or on any other matter that concerns the patent, and the Court may authorize one of the applicants to perform the act in place of the respondents, all in accordance with the application and on such conditions as it may deem appropriate.

(b) An order shall not be made under this section -

(1) if it is prejudicial to the rights or obligations of a trustee in bankruptcy, receiver, liquidator, administrator or executor of a will;

(2) if it contradicts one of the conditions of a written agreement between the partners to the patent.

Transfer of inventions and patents

82. Rights in an invention or patent may be transferred in writing and may devolve by operation of law.

Validity of transfer vis-a-vis third party

83. The transfer of a patent by agreement is in effect only for the parties to the agreement, unless it was registered under this Law.

License to exploit

84. A patent holder may give an exclusive or nonexclusive written license to exploit the invention for which the patent was granted, and so may the owner of an invention for which a patent application was made.

Exclusive License

85. An exclusive license under a patent confers upon its holder the exclusive right to act in accordance with section 49, as if he were the patent holder, and it prohibits the patent holder from exploiting in Israel the invention which is the subject of the patent.

Non-exclusive license

86. A non-exclusive license under a patent confers the right to exploit the invention which is the subject of the patent, to the extent and on the conditions prescribed in the license.

Registration a condition of effectiveness

87. A license under a patent is in effect only for the parties to the agreement, unless it was registered under this Law.

License to exploit jointly owned patent

88.

(a) A license to exploit a jointly owned patent shall only be granted with the consent of all the partners.

(b) This section shall not derogate from the power of the Court under section 81.

Charge on patent

89. A patent holder may, in writing, charge the patent or the income from it or both and - to the extent that this Law makes no other provisions on the subject - the Pledges Law 5727-1967 shall apply to the charge.

Registration a condition of effectiveness of charge

90. A charge on a patent shall have no effect with regard to any other creditor of the patent holder, or to a liquidator or trustee in bankruptcy of the patent holder, unless it was registered in the Register within 21 days after the day on which it is created, and it is subject to any other right in the patent granted before the charge was created and duly registered under this Law; however, if the patent is part of assets charged with a floating charge by the company or cooperative society that is the patent holder, then it is not necessary to register the floating charge under this section.

License to exploit charged patent

91. The grant of a license to exploit a patent subject to a charge, other than a floating charge, requires the written consent of the chargee.

Realization of charge

92. A charge on a patent may be realized by permission of the Court which may grant the chargee any relief it may deem proper, including the appointment of a receiver or an order to sell the patent.

Powers of receiver

93. A receiver may, with the Court's consent, sell the patent or give a license for its exploitation, and he may, subject to the Court's direction, collect the royalties or other payments to which the patent holder is entitled because he is the patent holder, no matter whether their due date was before the receiver was appointed or thereafter.

CHAPTER SIX POWERS OF THE STATE

Article One Powers Required for National Defense

Restriction on Registrar's activities for national security

94.

(a) The Minister of Defense may, by order, if he deems it necessary so to do in the interests of National security, including the protection of defense secrets, and after consultation with the Minister of Justice

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(1) order the Registrar to refrain from performing any act which he is required or permitted to do under this Law on a certain application, or to postpone its performance;

(2) prohibit or restrict the publication or release of information concerning a particular application, or in connection with the information in it.

(b) A copy of the order of the Minister of Defense shall be delivered to the applicant.

Transmission of certain applications to Minister of Defense

95. The Minister of Defense may direct the Registrar to transmit to a person he designated therefore a copy of applications of a certain category, and the Registrar may transmit to the Minister of Defense applications the matter of which appears to him to be relevant to National security or which includes a defense secret, all in order to enable the Minister to weigh whether an order under section 94 should be made in their respect; the Minister of Defense shall decide on every said application not later than four months after it was transmitted, and as long as he has not decided or as long as the said period has not expired, whichever is shorter, the Registrar shall not perform any act in respect of the said applications, except to acknowledge their submission under section 14.

Contestation of order that restricts activities

96.

(a) The applicant may contest an order under section 94 before a three member contestations committee appointed by the Minister of Justice, the members of which shall include a judge of the Supreme Court - the chairman of the committee - and a person recommended by the Minister of Defense.

(b) Notice of the appointment and address of the committee shall be published in the Official Gazette.

(c) Submitting the objection shall not stay implementation of the order.

(d) The contestations committee may confirm, change or cancel the order.

Right to further contestation

97. An applicant has the right to contest an order under section 94 as long as the order is in effect, and he may contest it again even after a decision was made on the contestation, if - in his opinion - the circumstances that existed at the time of the decision have changed; however, the committee may order the applicant to pay costs if, in its opinion, submitting a further contestation was not in place.

Restriction of right to submit patent applications abroad

98. An Israel national, a permanent resident of Israel or any other person who owes allegiance to the State shall not submit any application abroad for a patent for an invention the subject of which is weaponry or ammunition, or which is otherwise of military value, or for an invention with which section 95 deals, and he shall not - directly or indirectly - cause a said application to be submitted, unless one of the following applies:
(1) he received written permission from the Minister of Defense in advance;
(2) he submitted an application in respect of that invention in Israel and within six months after that application was submitted the Minister of Defense did not make an order on it under section 94, or he made such an order, but it is no longer in effect.

Article Two Powers on Inventions that Relate to Nuclear Energy

Restriction on activities that relate to nuclear energy

99.

(a) If the Minister finds that an invention for which a patent application was submitted is important for the development of the use of nuclear energy in Israel, or that the publication of an invention is liable to cause damage to nuclear research in Israel, then he may, by order after consultation with the Minister of Justice -

(1) order the Registrar to refrain from performing any act which he is required or permitted to do under this Law on the application, or to postpone its performance;

(2) prohibit or restrict the publication or release of information concerning the application, or in connection with the information in it.

(b) A copy of the order of the Minister of Defense shall be delivered to the applicant.

Transmission of certain applications

100.

The Minister may direct the Registrar to transmit to a person he designated therefore a copy of applications of a certain category, and the Registrar may transmit to the Minister applications in respect of which the Registrar thinks an order under section 99 would be proper, all in order to enable the Minister to weigh whether a said order should be made; the Minister shall decide on every said application not later than four months after it was transmitted, and as long as he has not decided or as long as the said period has not expired, whichever is shorter, the Registrar shall not perform any act in respect of the said applications, except to acknowledge their submission under section 14.

Contestation of order that restricts activities

101.

(a) The applicant may contest an order under section 99 before a three member contestations committee appointed by the Minister of Justice, the members of which shall include a judge of the Supreme Court - the chairman of the committee - and a person recommended by the Prime Minister.

(b) Notice of the appointment and address of the committee shall be published in the Official Gazette.

(c) Submitting the objection shall not stay implementation of the order.

(d) The contestations committee may confirm, change or cancel the order.

Right to further contestation

102. An applicant has the right to contest an order under section 99 as long as the order is in effect, and he may contest it again even after a decision was made on the contestation, if - in his opinion - the circumstances that existed at the time of the decision have changed; however, the committee may order the applicant to pay costs if, in its opinion, submitting a further contestation was not in place.

Restriction of right to submit patent application abroad

103. An Israel national, a permanent resident of Israel or any other person who owes allegiance to the State shall not submit any application abroad for a patent for an invention with which section 100 deals, and he shall not - directly or indirectly - cause a said application to be submitted, unless one of the following applies:

(1) he received written permission from the Minister in advance;

(2) he submitted an application in respect of that invention in Israel and within six months after that application was submitted the Minister

did not make an order on it under section 99, or he made such an order, but it is no longer in effect.

Article Three Use of Inventions in the Interest of the State

Right of State to exploit invention

104. The Minister may permit the exploitation of an invention by Government departments or by an enterprise or agency of the State, whether a patent for it has or has not already been granted or has or has not already been applied for, if he finds that that is necessary in the interests of the National security or of the maintenance of essential supplies and services.

Right of State to permit exploitation of invention

105. The Minister may, if he finds that that is necessary for the purposes enumerated in section 104, grant a permit under that section to a person who operates under contract with the State, in order to ensure or facilitate the implementation of that contract and for the requirements of the State only.

Notice of Grant of exploitation permit

106. When a permit has been granted under this Article, the Minister shall notify the owner of the invention or the patent holder and the holder of the exclusive license that the permit was granted and the scope of the permitted use, unless National security requires otherwise.

Article Four Obligation of the State to Pay Compensation and Royalties

Compensation for restriction of activities

107. If an order was made under section 94 or 99 or if a permit was not granted under section 98 or 103, then the Treasury shall pay to the owner of the invention compensation at the rate set by agreement between the parties or - in the absence of agreement - by the compensation and royalties committee established under section 109.

Royalties for use of patents by the State

108. If a permit was granted under sections 104 or 105, then the State Treasury shall pay to the owner of the invention, to the patent holder or to the holder of an exclusive license, as the case may be, royalties set by agreement between the parties or - in the absence of agreement - set by the compensation and royalties committee.

Compensation and royalties committee

109. The Minister of Justice shall appoint a committee on compensation and royalties, which shall decide on claims for compensation and royalties under this Article; the members of the committee shall be a Justice of the Supreme Court, the Registrar and an additional member from among the teachers at an institution of higher education, within its meaning in the Council for Higher Education Law 5718-1958.

Guidelines for determination of royalties

110. When it is about to determine royalties, the committee shall also consider the scope and character of the permitted exploitation, and it may take into account royalties stipulated in licenses, the conditions of which are similar to those of the permit.

Exclusive jurisdiction of committee

111. No Court or tribunal shall consider any matter within the jurisdiction of the compensation and royalties committee, and every decision by the committee shall be final.

Article Five General Provisions

Definition

112. In this Chapter, "Minister" - the Minister designated by the Government.

Rules of procedure of committees

113. A contestations committee, as said in sections 96 or 101 and the compensation and royalties committee (hereafter in this Article: "committees") shall each prescribe its own rules of procedure, as far as those were not prescribed by or under this Law.

Proceedings not public

114. Proceedings before the committees shall not be open to the public unless the committee so ordered for a particular matter, and no person shall publish anything about proceedings in camera, except with the committee's permission.

Powers of committees

115.

(a) The committee shall have power -

(1) to obtain any written or oral evidence which they deem necessary;

(2) to summon any person to appear before them to give evidence or to produce any document in his possession, to interrogate him and to demand from him any document in his possession;

(3) to compel the attendance of any person who did not comply with a summons and did not justify that to their satisfaction, order him to pay all costs caused by his non-compliance or by compelling his attendance, and fine him an amount of money of not more than IL 75;

(4) to obligate any witness to give evidence on oath or affirmation in the manner customary in Court;

(5) to fine an amount of money of not more than IL 75 any person who was called to give evidence on oath or affirmation or to produce a document and who refused to do so without reasonable justification, on condition that no person shall be required to answer a question, if by answering it he might incriminate himself, and he shall not be fined for refusing to answer it;

(6) to admit any written or oral evidence, even if it would not be admissible in a civil or criminal trial;

(7) to award to a person summoned to attend a session of the committee an amount of money which, in the opinion of the committee, he spent in consequence of his attendance.

(b) The compensation and royalties committee may order that the amount of compensation or royalties not in dispute be paid, wholly or in part, before it makes its final decision.

CHAPTER SEVEN RESTRICTION OR CANCELLATION OF PATENT HOLDER'S RIGHTS IN THE PUBLIC INTEREST

Article One Compulsory Licenses

Definitions

116. In this Article -

"patented product" - a product for which, or for the production process of which a patent was granted;

"patent holder" - includes the holder of an exclusive license under the patent.

Power to grant compulsory license

117.

(a) If the Registrar is satisfied that a patent holder abuses his monopoly, then he may grant a license to exploit the invention that is the subject of the patent to a person who applied therefor in the prescribed manner and paid the prescribed fee.

(b) The Registrar shall not entertain an application under this section, unless it was submitted later than three years after the date on which the patent was granted or four years after the date on which the patent application was submitted, whichever is later.

Power to require notification concerning exploitation of patent

118.

(a) At the end of the time said in section 117, the Registrar may demand that a patent holder notify him in writing, within sixty days of the date of the demand, whether he exploits the patented invention in Israel by way of production or of importation, and if so, what is the extent of the production or of the importation and the location of the production area.

(b) The Registrar shall demand the notification under this section if he was requested to do so by use of the prescribed form and if the prescribed fee was paid.

(c) If the patent holder does not respond to the demand within 60 days after the date of the demand or within an additional period prescribed by the Registrar, then that shall be deemed an admission on the part of the patent holder that he abuses the monopoly conferred on him by the patent for the invention, in respect of which the notice was sent.

Abuse of monopoly defined

119. The exercise of a monopoly conferred by a patent shall be deemed abusive, if one of the following circumstances exists in respect of the invention, the product or the process which is the subject of the patent, and if the patent holder did not provide a reasonable justification for its existence:

(1) all the demand for the product is not satisfied in Israel on reasonable terms;

(2) the conditions attached by the patent holder to the supply of the product or to the grant of a license for its production or use are not fair under the circumstances of the case, do not take account of the public interest and arise essentially out of the existence of the patent;

(3) Repealed.

(4) Repealed.

(5) Repealed.

120. Repealed.

Compulsory license to exploit earlier patent on which the fate of a later patent depends

121.

(a) If a patented invention (hereafter: later invention) cannot be exploited without infringing an invention, for which the patent application date was earlier (hereafter: earlier invention), then the Registrar may, if so requested by the patent holder of the later invention, grant him a license to exploit the earlier invention to the extent necessary for the exploitation of the later invention, on condition that the later invention incorporates an important technological innovation over the earlier invention, which is of great economic importance.

(b) If the earlier and the later invention serve the same purpose, then a license under subsection (a) shall be granted on condition that the owner of the later invention grant a similar license to the owner of the earlier invention if he so requests.

(c) In the case of a patent application for which priority was claimed under section 10(a), the date of the previous application, within the meaning of section 10(a), shall be deemed the patent application date for purposes of this section.

(d) A license given to the owner of a later invention under the provisions of subsection (a) is not transferable, unless the rights to the later invention are transferred together with the license.

Factors to be taken into account in granting compulsory license

122. In dealing with an application for a license under section 117, the Registrar shall also take the following factors into account:

- (1) the applicant's ability to remedy the fault, because of which the license was applied for;
- (2) the public interest, which generally requires that inventions that can be exploited in Israel by way of production or by way of import should be so exploited to the greatest extent possible under existing circumstances and without delay;
- (3) the right to reasonable remuneration, taking the nature of the invention into account, for exploitation of the patented invention;
- (4) protection of the rights of any person who exploits in Israel, by way of production or by way of import, the invention to which the application for the license relates and of persons engaged in developing that invention;
- (5) the nature of the invention, the time elapsed since the patent was granted, and the steps taken by the patent holder or by his representative for the exploitation of the invention in Israel by way of production or by way of import.

Restriction of scope of compulsory license

123. A license under this Chapter shall be granted mainly for the requirements of the local market.

124.

(a) As soon as possible after an application for a license under this Chapter was submitted, the Registrar shall - at the applicant's expense - publish a notice in Internet that the application was submitted, and in it he shall invite all persons with an interest in the application or likely to be adversely affected by the grant of the license to join the proceedings.

(b) If a person wishes to join the proceeding, then he shall give notice thereof in the prescribed manner and at the prescribed time, and he shall pay the prescribed fee, and when he has done so he shall be deemed an applicant or a respondent in the proceeding, as the case may be.

(c) This section shall add to and not derogate from the provision of section 159.

Effect of compulsory license

125. A compulsory license under this Chapter shall go into effect thirty days after the day of the Registrar's decision or on a later date prescribed

by the Registrar; if an appeal was submitted against the decision, then the Court may delay its going into effect or it may attach conditions to its going into effect or to its delay.

Conditions of license

126. A license under this Chapter shall be a non-exclusive license, and the Registrar shall prescribe its conditions when he grants it, including the royalties or other consideration which the licensee shall pay to the patent holder, all as is reasonable and appropriate in the circumstances of the case and having taken the patent holder's legitimate interests into account, and the Registrar shall also prescribe -

- (1) circumstances under which the license shall be deemed void or shall be cancelled or its conditions shall be changed;
- (2) having taken into account, inter alia, the economic value of the license and the patent, the ways of determining the amount of the royalties or of the other consideration, when and how they shall be paid;
- (3) the ways of marking the product produced under the license.

Forced transfer of license

126A. A license granted under this Chapter is not transferable, unless the part of the business or of the good will connected to the use of the patent is transferred together with the license.

Review

127. The owner of a patent for which a license was granted under this Chapter may apply to the Registrar in the prescribed form and manner for a review of the license granted, because the circumstances which existed when the license was granted have changed or because the licensee violated one of its conditions, and the Registrar may cancel the license or change its conditions, if he is satisfied that it is right so to do.

Compulsory license to be treated like a license by agreement

128. A license under this Chapter and its conditions shall be treated like a license granted under an agreement between the patent holder and any other person who may be a party to the agreement, and the licensee.

Article Two: Cancellation of Patents in the Public Interest

Power of Registrar to cancel patents

129.

- (a) The Registrar may cancel a patent for which a license was granted

under this Chapter, if he is satisfied that granting the license did not suffice to prevent the abuse of the monopoly which was the ground for granting the license.

(b) The Registrar shall not entertain an application under this section, unless it was submitted by a person qualified to receive the license and unless two years have passed since the day on which a license under this Chapter was first granted in respect of that patent.

Effect of cancellation order

130. Cancellation of a patent under section 129 shall go into effect 60 days after the date of the Registrar's decision, or on a later date prescribed by the Registrar; if an appeal was submitted against the cancellation, then the Court may delay its going into effect or it may attach conditions to its going into effect or to its delay.

CHAPTER EIGHT SERVICE INVENTIONS

Notification of inventions

131. An employee must notify his employer of any invention which he made in consequence of his service or during the period of his service, as soon as possible after he invented it, and also of any patent application submitted by him.

Inventions in consequence of service

132.

(a) An invention by an employee, arrived at in consequence of his service and during the period of his service (hereafter: service invention) shall, in the absence of an agreement to the contrary between him and his employer, become the employer's property, unless the employer relinquishes the invention within six months after the day on which notification under section 131 was delivered to him.

(b) If, in his notification under section 131, the employee stated that - in the absence of a contrary reply from the employer within six months after delivery of the employee's notification - the invention will become the employee's property, and if the employer made no contrary aforesaid reply, then the invention shall not become the employer's property.

Decision on service invention

133. If a dispute arose on the question whether a certain invention is a service invention, then the employee or the employer may apply to the Registrar that he decide the question.

Remuneration for service invention

134. If there is no agreement that prescribes whether, to what extent and on what conditions the employee is entitled to remuneration for a service invention, then the matter shall be decided by the compensation and royalties committee established under Chapter Six.

Directives for determination of remuneration

135. In making a decision under section 134, the compensation and royalties committee shall also take into account the following factors:

- (1) the capacity in which the employee was employed;
- (2) the nature of the connection between the invention and the employee's work;
- (3) the employee's initiative in making the invention;
- (4) the possibilities of exploiting the invention and its actual

exploitation;

(5) expenses reasonable under the circumstances incurred by the employee in order to secure protection for the invention in Israel.

Reconsideration

136. The compensation and royalties committee is competent to reconsider a decision under section 134 if, in its opinion, the circumstances which existed at the time of the decision have changed and if it was requested to reconsider it; however, the committee may order the applicant to pay costs if, in its opinion, the application was not in place.

Obligation of State employee to give notice of invention

137. If a State employee, soldier, policeman or employee of a State enterprise or institution designated by the Minister of Justice by order, or if another person who receives his pay from the State or from any of those enterprises or institutions, made an invention during the period of his service or within six months after the end of the period of his service within the scope of his functions or within the scope of work of the unit in which he was employed, then give notice to the State Service Commissioner (hereafter: Service Commissioner) or to another public servant, as prescribed; a said notice shall be delivered as soon as possible after the invention was made, but not later than the date on which the inventor proposes to submit a patent application for it, and in the manner prescribed in consultation with the Minister of Finance.

State employee forbidden to submit application abroad

138. A person who must give notice under section 137 shall not submit abroad an application for a patent or for other protection for his invention, unless one of the following applies:

- (1) he received permission therefor in advance from the Service Commissioner or from another public servant authorized for that purpose;
- (2) it was not decided - by six months after the day on which he gave notice of his invention under section 137 - that his rights in the invention passed, in whole or in part, under section 132 or by agreement, to the State enterprise or State institution where he worked.

Obligation to disclose particulars

139. If a person gave notice under this Chapter or if he was under obligation to give said notice, then he must disclose to his employer, at any time, all the particulars of the invention and any further particular of importance to the subject of sections 132, 135 or 140.

Obligation to help obtain protection for service invention

140. If a person made a service invention and if the ownership of it passed, in whole or in part, to his employer under section 132 or by agreement, then he must do everything required of him by the employer in order to obtain protection for the invention to the employer's benefit in any place whatsoever, and he must sign any document required therefor; if he does not do so, then the Registrar may permit the employer to do so after he has given the employee an opportunity to state his arguments.

Obligation of secrecy

141. As long as no patent application has been submitted for a service invention, the employee, the employer and any person to whom the matter was confided shall not disclose particulars of the invention.

CHAPTER NINE PATENT ATTORNEYS

Eligibility for registration in the Register of Patent Attorneys

142.

(a) If a person meets the following requirements, then he is entitled to be registered in the Register of Patent Attorneys and to receive a patent attorney's license:

(1) he is an Israel resident;

(2) one of the following holds true for him:

(a) he is registered as an engineer in the Register of Engineers and Architects under the Engineers and Architects Law 5718-1958;

(b) he graduated from an institution of higher education, within its meaning in the Council for Higher Education Law 5718-1958, in one of the professions specified in Schedule Two;

(c) he graduated abroad, at an institution of higher education or a higher technological institute approved for the present purpose by the Minister of Justice after consultation with the Council for Higher Education, in one of the professions specified in Schedule Two;

(3) he has passed the examinations said in section 143 or was exempted from them;

(4) he performed qualifying service in Israel during not less than two years in the office of a patent attorney who practices his profession for at least three years, at the Patent Office or in the patent department of an industrial enterprise;

(5) he paid the prescribed fee.

(b) The Minister of Justice may, with the approval by the Knesset Constitution, Law and Justice Committee, add to the fields of specialization enumerated in Schedule Two.

Examination

143.

(a) If a person wishes to be registered in the Register of Patent Attorneys, then he must pass an examination in the prescribed manner in order to prove that he has an appropriate knowledge of the Law of patents, designs and trademarks of Israel and in foreign countries and of other relevant enactments, all as prescribed, and that he has command of the Hebrew language and of at least one other language required for his work, as prescribed.

(b) The examination shall be conducted by two or three examiners, among them not more than one patent attorney, and in each case they shall be selected by the Minister of Justice - or by a person appointed by him

for that purpose - from a panel of examiners determined by the Minister.
(c) The Minister of Justice may exempt categories of candidates from the examination if it can be proved in some other prescribed manner that they possess the knowledge required in an examination under subsection (a).

Shortening period of qualifying service

144. The Minister of Justice may prescribe that categories of candidates be exempt from all or some of the obligation of qualifying service under section 142(4).

Payment of fee - a condition for registration

145. If a person was registered in the Register of Patent Attorneys, then he shall be given a patent attorney's license and shall be registered in that Register as long as he pays the prescribed fee at the prescribed times.

Disciplinary committee

146. The Minister of Justice shall appoint, in general or for a particular case, a disciplinary committee of three members, including a person qualified to be a judge, who shall be the committee chairman, and two other members, of whom at least one shall be a patent attorney.

Submitting of Complaint

147.

(a) Any person may submit a complaint against a patent attorney to the disciplinary committee.

(b) If the Minister of Justice did not appoint a general disciplinary committee, then the complaint shall be submitted to the Minister of Justice, and he shall appoint a committee under section 146 and refer the complaint to it.

Disciplinary offenses and their penalties

148.

(a) If the disciplinary committee finds that a patent attorney -

- (1) was convicted of a criminal offense that involves dishonor;
- (2) permitted his name as a patent attorney to be used for the benefit of a person who is not a patent attorney;
- (3) displayed inability, irresponsibility or negligence in the performance of his tasks as a patent attorney;
- (4) acted unfairly in his professional work or in a manner inappropriate to the profession of a patent attorney;

(5) violated one of the rules of professional ethics;
then the committee shall adopt one or more of the following measures
against him:

a warning;

a reprimand;

a fine as said in section 61(a)(1) of the Penal Law 5737-1977;

the prohibition to work as a patent attorney during a period of not more
than five years;

removal of his name from the Register.

(b) The disciplinary committee's decision shall be in writing, and it
shall be delivered to the complainant and to the patent attorney in a
matter which it shall prescribe.

(c) The disciplinary committee may decide to publish the means taken
against a patent attorney, in some or in whole, either by
publishing the name of the patent attorney, or not, as appropriate.

(d) If the name of the patent attorney was revoked from the register under
this section, then his application for reconsideration by the Registrar
shall not be reviewed until the seven years since the decision on it have
passed, and after he has proven the existence of extenuating circumstances
which justify the renewal of the registration; Re-registration is
contingent upon the approval of the disciplinary committee.

Appeal

149. A patent attorney may - within 30 days after he was served notice
of the decision - appeal before the District Court against the disciplinary
committee's decision to impose punishment on him as said in section 148,
including the decision to make its decision public, and the person who
submitted a complaint against a patent attorney under this Chapter may
appeal as aforesaid against a disciplinary committee decision or against
its dismissal of his complaint.

Rules of procedure of disciplinary committee

150. A disciplinary committee shall try a patent attorney or take evidence
only in his presence, after he was summoned to appear before it and after
he was informed of the complaint; before the decision is given, he shall
be given an opportunity to have his say; if the patent attorney does not
appear before the committee after he was summoned a second time, then
the committee may try him, take evidence and hear the matter in his absence
and it may give its decision without he having had his say.

Powers of disciplinary committee

151. A disciplinary committee has all the powers of a committee under section 115(a).

Implementation

152.

(a) The Registrar shall enter in the Register the disciplinary punishment, which the disciplinary committee decided to adopt against the patent attorney.

(b) The Registrar shall not implement the decision of the disciplinary committee as long as the period of appeal under section 149 has not passed; if an appeal was submitted, then the Registrar shall not implement the decision until the District Court has made its judgment.

(c) The entry in the Register under this section shall be published in the Official Gazette, if the committee so decided.

Saving of laws

153. The conviction or acquittal of a person in disciplinary proceedings under this Chapter shall not derogate from any power to bring criminal proceedings or other disciplinary proceedings against a person because of the grounds that were the basis for a disciplinary proceeding under this Law.

Rights of patent attorneys

154.

(a) Patent attorneys have the exclusive right to deal in Israel, for remuneration, with applications for patents, designs and trade marks and with the preparation of any document to be submitted to the Registrar, the Office or to an authority for the protection of industrial property in another country, to represent the parties and to handle and represent in any proceeding before the Registrar or in the Office.

(b) This section does not derogate from the right of an advocate or of a State employee to perform the said acts within the scope of his functions.

Right of representation in Court

155. A patent attorney shall, by the Court's permission, have the right to plead in Court on behalf of a party to proceedings under this Law on any matter that relates to an invention or a patent and is not a point of Law, on condition that the advocate of that party is present at the time.

CHAPTER TEN OFFICE AND REGISTRAR

Patent Office

156. An office shall be established and called the Patent Office, and it shall, through the Registrar, the examiners and its other personnel perform the activities assigned to it by this Law and also -

- (1) give information to the public about patents that were granted;
- (2) maintain a library and a publication service on patents;
- (3) maintain contact with international organizations that deal with the protection of industrial property;
- (4) maintain contact with institutions in Israel and abroad, on condition that any contract signed with a said institution be in compliance with the provisions of all enactments, and that a contract under section 18 include a section with wording approved by the Registrar on maintaining secrecy about all patent applications and non-revelation of information.

Registrar

157.

- (a) The Office shall be headed by the Registrar of Patents, who shall be appointed by the Minister of Justice.
- (b) The Registrar shall be a person qualified to be a judge of a District Court.
- (c) In the performance of his judicial functions under this Law the Registrar shall be subject to no authority other than that of the Law.

Deputy Registrar

158.

- (a) The Minister of Justice may appoint a Deputy Registrar.
- (b) The Deputy Registrar shall be a person qualified to be a judge of a District Court or who was registered during at least five years in the Register of Patent Attorneys.
- (c) A Deputy Registrar may carry out any function assigned to the Registrar by this Law, except for functions and powers under section 109 and under Chapter Seven; the Deputy Registrar shall perform his functions according to the provisions of this Law and - for the exercise of his functions - the powers vested in the Registrar by this Law are vested in him.
- (d) Any act validly performed by a Deputy Registrar shall, for the purposes of this Law, have the effect of an act performed by the Registrar.

Exercise of power by the Registrar

159. The Registrar shall exercise a power conferred on him by this Law

after giving any person who in the Registrar's opinion is liable to be adversely affected by his decision an opportunity to present his arguments before him.

Decisions by Registrar to be in writing

160. Decisions by the Registrar shall be in writing and shall be delivered in the prescribed manner to every person who was a party to the proceedings in which the decision was made.

Objection to acts of examiner

161. It is permissible to object to any decision or act of an examiner and to request that the matter be brought before the Registrar.

Proceedings in contested case

162.

(a) In any contested case brought before the Registrar under this Law, the Registrar shall give the parties an opportunity to produce their evidence and to present their arguments in writing and orally in the prescribed manner and form and at the prescribed time.

(b) The Registrar may order the payment of reasonable costs and he may direct which of the parties shall pay the costs and how they shall be paid.

(c) An order under subsection (b) may be executed, as if it were a Court judgment.

Evidence before the Registrar

163.

(a) Subject to any provision in this Law or in regulations under it, evidence shall be given before the Registrar by written affidavit and the Registrar shall permit the person who made the affidavit to be cross-examined, if he was requested to do so and if he sees no reasonable cause why he should not permit it.

(b) In taking oral testimony, the Registrar shall have all the powers of a Court on the swearing of witnesses, the acceptance of declarations from them and compelling witnesses to attend, and on other matters connected thereto and to the giving of testimony.

Extension of time

164.

(a) The Registrar may, if he sees reasonable cause for doing so, extend any time prescribed by this Law for the performance of anything at the

Office or before the Registrar, except for the times prescribed in sections 18(b)(3) dealing with submission of documents by a person who is not the applicant, 30, 56, 57, 61, 64E(e)(2), 64F, 64M, 64P(a), 73(c) and 170(c); however, for purposes of section 10 -

(1) the Registrar shall not extend the time prescribed by subsection (a)(1), unless he is satisfied that the application in Israel was not submitted on time because of circumstances over which the applicant and his representative had no control and which could not be prevented;

(2) the Registrar shall extend the time prescribed by subsection (a)(2) only as long as the application has not yet been accepted and if he is satisfied that a mistake was made innocently.

(a1) Repealed.

(a2) Notwithstanding subsection (a), the Registrar may extend the time prescribed in section 64P(a1), only once.

(b) The Registrar may make the extension of times conditional on conditions as he deems fit.

(c) An application for extension of a time may be submitted within the time or after it.

(d) Notwithstanding the provisions of subsections (a) and (b) and the provisions of any other Law, if the last day of the period prescribed in section 10(a)(1) falls on a day that is not a work day, then the period shall end on the first work day thereafter; this provision does not derogate from the power to extend beyond the time prescribed in section 10(a)(1).

Confidentiality of documents of Office

165.

(a) The Registrar and every other employee of the Office, and also every other person to whom information was given by virtue of section 18(a)(5), 95, 96, 100, 101 or 109, shall keep every patent application confidential, as long as it has not been published under section 16A or section 26, whichever is the earliest, and that when there is no other provision in this Law.

(a1) The provisions of subsection (a) shall not apply to -

(1) particulars made public under section 16;

(2) refusal by the Registrar under section 21;

(3) the fact that an application was cancelled by the applicant under section 21B.

(b) A person shall not disclose any information which reached him in the implementation of this Law and which is not open to public inspection, except when that is necessary in order to comply with provisions of this

Law or in order to bring a criminal action under it.

Register of Patents

166.

(a) A Register of Patents shall be kept at the Office, and in it shall be entered the matters prescribed in this Law and additional particulars which have been prescribed or which the Registrar thinks should be entered.

(b) If, in a proceeding under this Law, a person gave his address to the Office, then that address shall be his address for the service of notices and documents on any matter under this Law.

(c) A copy of publications and notifications, as said under subsection (a), shall be saved and for inspection of the public in hard copy, in these locations:

- (1) The State archives;
- (2) The Public library;
- (1) The Knesset library;
- (1) The ministry of justice library;
- (1) The Office.

Documents of the Office

167. All documents held by the Office and relating to the examination of a patent application by the Office, to the validity of or to rights in a patent or to any other matter that may affect the validity of a patent or of rights in it - except internal correspondence between members of the Office and other documents for which regulations make other provisions - shall be retained at the Office during at least seven years after the day on which the effect of the patent expired.

Inspection by public and receipt of certified extracts

168.

(a) The Register and the documents that must be kept under section 167 shall be open for inspection by the public; however, documents that relate to a patent application not yet published under section 16 or under section 26, whichever is earliest, shall not be open for inspection.

(b) Every person shall be entitled to receive an extract certified by the seal of the Office of anything in the Register or in any document open for inspection under this section, if he applied therefor in the prescribed manner and paid the prescribed fee.

Registration of transfer of rights

169.

(a) The transferee of rights in a patent or in an invention for which a patent application was submitted may apply to the Registrar for registration as owner of those rights, and if the transfer was proved to the Registrar's satisfaction and the prescribed fee was paid, then the transfer of the rights shall be entered in the Register or in the application file.

(b) The Minister of Justice may prescribe ways for service of judgments that prescribe a transfer of rights in a patent or in an invention for which a patent application was submitted; if the Minister has so prescribed and if a judgment was served on the Registrar in the said manner, then, notwithstanding the provisions of subsection (a), the Registrar shall enter the transfer prescribed by the judgment.

Correction of entries and documents

170.

(a) On application by an interested person, to be submitted in the prescribed manner and form, the Registrar may correct an entry in the Register and in every document issued by him or submitted to the Office if, in his opinion, the Register or document does not reflect the facts, and that when no other way of making the correction is provided by this Law.

(b) The Registrar shall give notice in the Internet of an application for correction under this section; however, if application was made to correct a patent application or to correct a document related to it, then he shall publish notice of the application only after the notice under section 26 that the patent application was accepted.

(c) Every person may submit opposition to an application for correction within three months after the application for correction was made public under subsection (b).

(d) Law procedure on an opposition under this section shall be like law procedure on an opposition under section 30.

Correction of clerical error

171. The Registrar may, if requested to do so in the prescribed form and manner, correct a clerical error in the Register or in a document issued by him or by the Office.

Correction on the Registrar's initiative

172. The Registrar may also make a correction under sections 170 and 171

on his own initiative, after he has given every person who in his opinion is liable to be adversely affected by the correction an opportunity to state his arguments.

Assignment of judicial functions and the assumption of authority

172A.

(a) The Minister may assign a state employee, who is an advocate qualified to be a District Judge (hereafter – intellectual property adjudicator), to perform a judicial function that the Registrar must perform, or which the Registrar is competent or allowed to perform under the provisions of this Law, except under section 109 and Chapter Seven, on condition that – for purposes of a determination or a decision whether a patent is qualified for registration or whether a patent is not qualified for registration, also by way of opposition – a judicial function be assigned to an intellectual property adjudicator only after the application to register a patent was examined by an examiner; for this purpose, the fact that the patent application relates to a patent that was registered or for which an application to register a patent was submitted in a country abroad shall not constitute sufficient authority for an examination of the application.

(b) If a function said in subsection (a) was assigned to an intellectual property adjudicator, then he shall perform the function under the provisions of this Law and – for the performance of his function – the Registrar's powers under this Law shall be vested in him.

(c) Any act lawfully performed by an intellectual property adjudicator, to whom a function said in subparagraph (a) was assigned, shall – for the purposes of this Law – be treated like an act performed by the Registrar.

Restriction on admission of documents that attest rights in patent

173.

(a) No document or deed, in which a patent, an invention for which a patent application was submitted or an interest in a said invention or in a patent is transferred, shall be admitted in Court as evidence of title to the invention, patent or interest, unless it was registered under section 169 or unless the Court sees a reason for admitting it.

(b) Notwithstanding the provision of subsection (a), aforesaid documents shall be admitted as evidence in any proceeding on a correction of the Register under section 170.

Right of Appeal

174.

(a) If a person deems himself injured by a decision of the Registrar in conclusion of hearings in a proceeding before him under this Law, including a decision not to hear him under section 159, then he may appeal against it before the Court within the prescribed time.

(b) If a person deems himself injured by any other decision of the Registrar under this Law, then he may appeal against it before the Court after he was given permission to do so by the Court or by the Registrar.

For purposes of this section, "other decision" - any other decision that does not conclude hearings in a proceeding held before the Registrar.

Respondents in the appeal

175. Every person who was a party to the proceedings before the Registrar, other than the appellant, shall be the respondent; if there is no other party, then the Registrar shall be the respondent.

Hearing in camera

176. An appeal against a decision of the Registrar who refuses to accept a patent application before publication under section 26 shall be heard in camera, unless the Court ordered otherwise on the appellant's application.

Evidence in appeal

177. The Court that hears the appeal may take evidence, including evidence already taken by the Registrar and also other evidence, and it may demand that that evidence be brought by affidavit or in another manner which it deems appropriate; if evidence is brought by affidavit, then section 163(a) shall apply, mutatis mutandis.

CHAPTER ELEVEN PATENT INFRINGEMENT

Action for infringement

178.

(a) Only the patent holder or an exclusive licensee are entitled to bring action for infringement.

(b) In the case of a jointly owned patent, each partner may bring action for infringement.

(c) If the patent holder or some of the partners to the patent or the exclusive licensee did not join the action for infringement as plaintiffs, then they shall be joined by the plaintiff as defendants.

(d) If a person was joined as a defendant under this section, but did not take part in the proceedings, then he shall not be required to pay costs.

Time for submitting action for infringement

179. Action for infringement shall be brought only after the patent was granted; however, if action for infringement was brought, then the Court may –

(1) award compensation for exploitation of an invention committed after the date of publications under section 16A and before the date of publication under section 26; said compensation shall be set at a reasonable rate for royalties which the infringer would have paid had he been granted license to exploit the invention at the scope aforesaid exploitation was committed; however, said compensation shall not be awarded unless the court found it constitutes an infringement of the patent granted, and on the condition the invention claimed in the application is identical in a substantive manner to the invention claimed in the application published under section 16A;

(2) grant relief for an infringement committed after the date of publication under section 26.

Exploitation of forfeited product

180. The exploitation of a patented product which was validly forfeited to the State shall not constitute infringement.

Use of patents in foreign vessels, aircraft and vehicles

181. The following shall not be deemed infringements:

(1) the use of an invention patented in Israel in the body of a vessel registered in a Member State other than Israel, in its machinery, tackle, apparatus or other accessories, when the vessel is temporarily or

incidentally in Israel territorial waters, on condition that the exploitation is exclusively for the needs of the vessel;

(2) the use of an invention patented in Israel in the construction or operation of an aircraft or land vehicle registered in a Member State other than Israel, or of the accessories of such an aircraft or land vehicle, when they are temporarily or incidentally in Israel.

Defense for infringement

182.

(a) Any grounds, on which the grant of a patent may be opposed, shall be a good defense in an action for infringement; if the Court accepted the defense, then it shall order the patent to be cancelled in whole or in part, as the case may be.

(a1) Grounds, on which it is possible to oppose the grant of an extension order, shall be a good defense in a suit for the violation of an extension order; if the Court accepted the defense, then it shall order the extension order to be cancelled.

(a2) Grounds on which the period of effect of an extension order can be shortened shall be a good defense in a suit for the infringement of an extension order, which was during the period of abbreviation; if the Court accepted the defense, then it shall order the period of effect of the extension order to be shortened; for this matter, "period of abbreviation" - the period by which the period of effect of an extension order is to be shortened in accordance with the grounds for its abbreviation.

(b) The Laws of prescription shall not apply to a defense under this section.

Relief in action for infringement

183.

(a) In an action for infringement, the plaintiff shall be entitled to relief by way of injunction and compensation.

(b) In awarding compensation, the Court shall take account of the act that constitutes the infringement and of the plaintiff's situation in consequence of that act, and it may also take into account -

(1) the direct damage caused to the plaintiff;

(2) the extent of the infringement;

(3) the profits derived by the infringer from the act of infringement;

(4) reasonable royalties which the infringer would have had to pay, if he had been granted a license to exploit the patent to the extent to which he infringed it.

(c) If an infringement was committed after the patent holder or exclusive

licensee warned the infringer, then the Court may order the infringer to pay punitive compensation, in addition to the compensation which it adjudged under subsection (b), in an amount that does not exceed that compensation.

(d) If action was brought for compensation, then the Court may order the defendant to render an account of the extent of the infringement; however, in fixing the amount of compensation, the Court shall not be bound by the account, but may set the amount of compensation according to all circumstances of the case; this provision shall not derogate from the Law Procedure Regulations on the rendering of accounts.

Restriction on award of compensation in case of partially

184. If part of a patent, for the infringement of which action was brought, has been cancelled, that fact alone shall not deny the plaintiff compensation for the infringement; however, the Court may refrain from awarding compensation if the claims in the specification of the original patent were not worded in good faith or were not worded clearly.

Compensation in the case of a patent, the specification of which was amended

185. If a patent was infringed before permission was given to amend one of the claims in the specification, and if action for compensation for the infringement was brought after that permission was given, then the Court may refrain from taking the permission to amend into account, if the claims in the specification of the original patent were not worded in good faith or were not worded clearly.

Compensation in the case of a patent that was renewed

186. The Court may refrain from awarding compensation for the infringement of a patent which was committed in the period between the time for payment of the fee under section 56 and its actual payment under section 57.

Declaration of non-infringement

187.

(a) If a person intends to exploit any product or process, then he may apply to the Court for a declaration that the said exploitation does not constitute an infringement of the patent specified in the application.

(b) The patent holder and the exclusive licensee shall be the respondent to the application.

(c) The Court shall not grant the declaration, unless the applicant gave

the patent holder full particulars of the product or process he wishes to use, has asked him for the declaration for which he applies to the Court, and the respondent has refused to make it or has not made it within a reasonable period; however, the Court shall not reject a petition only because, the Court believes that it was submitted before a reasonable time for the respondent making the declaration had passed.

(d) The parties' costs shall be borne by the applicant for the declaration, unless the Court ordered otherwise.

(e) In proceedings under this section the argument that the patent is invalid shall not be heard, and the grant or refusal of the declaration shall not be decisive on the question of the patent's validity.

Means of enforcement

187A. In proceedings under this Chapter the Court may resort to the means of enforcement enumerated in section 18C.

CHAPTER TWELVE JURISDICTION AND PENALTIES

Court competent under this Law

188.

(a) The Court for the purposes of this Law, except for actions for infringement, shall be the District Court of Jerusalem; however, the Minister of Justice may, by order, direct that the powers of a Court under this Law shall also vest in other District Courts which he designated.

(b) The Court for actions for infringement shall be the District Court which has jurisdiction in the matter under any other enactment.

Scientific adviser

189.

(a) In proceedings under this Law, the Court may appoint a scientific adviser, who shall assist it in taking evidence and shall advise it, but who shall not take part in making judgment.

(b) The scientific adviser's remuneration shall be set by the Court and paid out of the State Treasury.

Authority to order amendment of specification

190. In any proceeding under this Law, the Court may, on the application by the patent holder, order the specification to be amended for the reasons said in section 65 or 69, and the provisions of sections 66 and 67 shall apply to it mutatis mutandis.

Powers of Court in case of referral to Registrar

191. If the Court permitted the Registrar to hear an application for amendment under section 70 or an application for cancellation under section 74, then it may stay the proceedings in an action pending before it in the matter of that patent, for a period and on conditions which it shall prescribe, but each party may apply to the Court at any time that it change the stay order or cancel it.

Penalty for pretending to be patent attorney

192.

(a) The following shall be liable to a fine of IL 5,000:

(1) a person who performs any act reserved by this Law to a patent attorney while he is not a patent attorney

(2) a person who pretends to be a patent attorney and is not a patent attorney;

(3) a person who performs any act reserved by this Law to a patent attorney

while his patent attorney's license is suspended.

(b) Subsection (a) (1) shall not apply to an advocate or to a State employee who acts in the discharge of his functions, as said in section 154(b).

Acts that impair national security or the State's economic strength and disclosure of secrets

193.

(a) If a person publishes or passes information in violation of a direction issued under section 94 or 99, or if he violated provisions of sections 98, 103, 114, 137, 138 or 165, then he shall be liable to two years imprisonment or to a fine of IL 20,000.

(b) Courts in Israel are competent to try an offense under section 98, 103, 138 and 165, which was committed abroad.

(c) The provisions of this section shall add to, and not derogate from the provisions of any other enactment.

CHAPTER THIRTEEN IMPLEMENTATION AND REGULATIONS

Implementation and Regulations

194. The Minister of Justice is charged with the implementation of this Law and he may - with approval by the Knesset Constitution, Law and Justice Committee - make regulations for its implementation, including the regulation of -

- (1) registration procedures;
- (2) Law procedure in proceedings under this Law;
- (3) the form of the application, and specifications and ways of demonstrating the invention in the specification;
- (4) the fees payable for applications submitted to the Office or for acts of the Office, for the registration or renewal of patents and for other matters to be prescribed, for which a fee is payable;
- (4a)
 - (a) the fees to be paid:
 - (1) under Chapter Three "A";
 - (2) for acts by the Office on other matters, regulations prescribing that a fee must be paid for them;
 - (3) for acts which the Office must perform under the Convention, as defined in section 48A, on condition that the said Convention provides that fees may be collected for them;
 - (b) procedures for the payment of fees required under the Convention and times for their payment.
- (5) the publication and sale of abridgments of specifications and drawings on behalf of the Registrar and the regulation of other publications produced by the Office;
- (6) the preparation, printing, publication and sale of patent specifications by the Office;
- (7) the procedure for registration of patent attorneys in the Office;
- (8) procedures for the submission of international applications under Chapter Three "A", and their handling;
- (9) setting times for the payment of fees and for performing acts required under this Law;
- (10) rules of professional ethics for patent attorneys;
- (11) law procedure for applications for the grant of an extension order of a patent, for opposition to the grant of an extension order and for applications to cancel an extension order;
- (12) ways of delivering notifications to the Registrar by the holder of a basic patent, in respect of which an extension order was granted;
- (13) the fees payable for the Office's activities on matters of extension

orders.

(14) Publication of the register on the Office's website and on the Internet under section 166A, as well as ascription of other modes of publication

CHAPTER FOURTEEN EFFECT AND TRANSITIONAL PROVISIONS

Effect

195. This Law shall go into effect on April 1, 1968, and from that day on the Patents and Designs Ordinance shall no longer apply to the grant of patents, to inventions and to the validity thereof; however -

(1) the said Ordinance shall apply to a patent granted before this Law came into effect on any matter that relates to its patentability and validity;

(2) a patent under an application, in respect of which notification was sent under section 10 of the Ordinance shall be given in the manner prescribed in the Ordinance, and once it has been granted, then paragraph (1) shall apply to it;

(3) a Register kept under the Ordinance shall be treated like a Register kept under this Law;

(4) a person appointed to be Registrar under the Ordinance shall be deemed to have been appointed Registrar under this law.

Transitional provision concerning patent agents

196. As of the day on which this Law goes into effect, no person shall deal with the registration of patents, unless he is registered as a patent attorney under this Law or is an advocates or a State employee in the performance of his duties as said in section 154(b); however -

(1) an individual registered as a patent agent under the Patents and Designs Ordinance is entitled to be registered as a patent attorney under this Law;

(2) an individual who is a partner in a firm registered as a patent agent under the Ordinance and an individual employed by a said firm is entitled to be registered as a patent attorney under this Law if they engaged - to the Registrar's satisfaction - to a considerable extent in work reserved by this Law to a patent attorney; on condition that they apply for aforesaid registration during the period between the publication of this Law in the Official Gazette and its going into effect when they have done so they shall have to pay a registration fee under section 142(5).

SCHEDULE ONE

(section 64A - the definitions "recognized state" and "recognized European state")

Part One

- (1) United States of America

Part Two

- (1) Italy
- (2) U.K
- (3) Germany
- (4) Spain
- (5) France

SCHEDULE TWO (section 142)

- (1) Engineering
- (2) Chemistry
- (3) Physics
- (4) Pharmacy
- (5) Computer Science