

## **LAW OF MONGOLIA**

### **ON PATENT**

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## **CHAPTER ONE**

### **GENERAL PROVISIONS**

#### **Article 1. Purpose of the Law**

1.1. The purpose of this law is to protect rights of creators of inventions, industrial designs and utility models, owners of patent and certificate of registration and to regulate relations arising in connection with the exploitation of inventions, industrial designs and utility models.

#### **Article 2. Legislation on Patents**

2.1. The legislation on patents shall consist of the Constitution of Mongolia, the Civil Law, this Law and other legislative acts issued in conformity with them.

2.2. If an international treaty to which Mongolia is party provides rules different from those set forth in this Law, the provisions of the international treaty shall be applicable.

#### **Article 3. Definitions in this Law**

3.1. The definitions of the terms used in this Law shall be as follows:

3.1.1. "invention" means a new solution related to a product or an industrial process which involves an inventive step, and the essence of which is disclosed on the basis of a law of nature;

3.1.2. "industrial design" means a new and original solution related to the shape, pattern or color, or a combination of colors in an article;

3.1.3. "utility model" means a new technical solution related to an industrial tool, device or process which is capable of industrial application;

3.1.4. "patent" means a document granted by a responsible government authority certifying the recognition of the given solution as an invention or industrial design, and granting the exclusive right to own the invention or industrial design to the creator for a fixed period of time;

3.1.5. "utility model certificate" means a document granted by a responsible government authority certifying the exclusive right of a legitimate person to own the utility model;

3.1.6. "creator" means a person who devised an invention, industrial design or utility model by his mental creativity;

3.1.7. "filing date" means the date on which an application for an invention, industrial design or utility model is received at the government authority in charge of intellectual property matters;

3.1.8. "applicant" means a creator or a natural or legal person to whom the rights have been assigned, who applies for a patent or certificate in order to obtain the legal protection for an invention, industrial design or utility model;

3.1.9. "priority date" means the date on which a patent application for the same invention or industrial design was filed in a country that is a member of the Paris Convention for the Protection of Industrial Property or the World Trade Organization, such date being prior to the filing date;

3.1.10. "patent or certificate owner" means a creator or a person to whom the rights have been assigned, who has obtained a patent for an invention or industrial design or a certificate for an utility model and related exclusive rights in compliance with rules and regulations prescribed by law;

3.1.11. "examiner" means a responsible officer of the government authority in charge of intellectual property matters who has a higher education degree in natural or technical sciences and who has two years work experience in the field of intellectual property;

3.1.12. "similar industrial design" means a design which is similar to a previously protected design in substantive features;

3.1.13. "license" means a permission given to another person to exploit a patented invention or industrial design or a protected utility model;

3.1.14. "exclusive license" means a permission given by a patent or certificate owner to another person on a contractual basis excluding any other third parties;

3.1.15. "compulsory license" means a permission given to another person upon payment to a creator or right holder to exploit an invention, industrial design or utility model by the decision of a responsible government authority where the public interests such as national security or defense, food supply or public health are concerned or in other cases stipulated by law;

3.1.16. "International Agreement to which Mongolia is party" means the Paris Convention for the Protection of Industrial Property (1883), the Hague Agreement Concerning the International Deposit of Industrial Design (1960), (1999), the Patent Cooperation Treaty (1970), the Strasbourg Agreement Concerning the International Patent Classification (1971), the Locarno Agreement Establishing an International Classification for Industrial Design (1968), the Agreement on Trade-Related Aspects of Intellectual Property Rights (1994) of the World Trade Organization and other treaties and agreements to which Mongolia is party;

3.1.17. "International application designating Mongolia according to PCT" means an application for a patent or utility model with a priority claim, which is filed according to the Patent Cooperation Treaty.

#### **Article 4. Patent Subject Matter and Patentability**

4.1. A patent shall be granted to a creator of a new product or industrial process which involves an inventive step and capable of industrial application, or to a natural or legal person to whom the rights have been assigned.

4.2. A product or industrial process shall be regarded as “new” if it is not anticipated by the prior art.

4.3. An invention shall be regarded to “involve an inventive step” if it is not obvious to a person skilled in the art, which is determined by an examiner.

4.4. An invention shall be regarded “to be capable of industrial application” if it can be used in any kind of industry.

4.5. The government authority in charge of intellectual property matters /hereinafter referred to as the “Intellectual Property Office”/ for determining the state of the art related to the novelty of an invention shall use applications filed prior to the filing date of that invention and information on protected inventions and utility models.

4.6. A patent examiner, when determining whether the requirements set forth in Article 4.1 of this Law are complied with, may accept a preliminary examination report established by a Preliminary Examining Authority in relation to applications for an invention or utility model.

4.7. The following shall not be considered as inventions:

4.7.1. a discovery, scientific theory or mathematical method;

4.7.2. a computer program, algorithm;

4.7.3. a scheme, rule or method for performing a mental act, playing game or doing business;

4.7.4. a solution contrary to public order or morality, or which is prejudicial to environment or human health;

4.7.5. diagnostic and therapeutic methods for the treatment of humans or animals;

4.7.6. plants and animals other than micro-organisms, and biological processes for the production of plants and animals.

4.8. For the purposes of the “novelty” requirement referred to in Article 4.2 of this Law, the disclosure of matter constituting an invention shall be taken not to occur prior the filing date of the application.

4.9. Non-biological and microbiological processes shall not be related to Article 4.7.6 of this Law.

#### **Article 5. Patentability of Industrial Designs**

5.1. A patent shall be granted to a creator of an industrial design or to a natural or legal person to whom the rights have been assigned, if the design is new, ornamental and original.

5.2. The following features shall be taken into consideration for an industrial design to be protected:

5.2.1. A design shall be regarded as “new” if its features were not publicly known prior to the filing date of the application;

5.2.2. A design shall be regarded to be “original” if its features possess creative characteristics.

5.2.3. Features of an industrial design shall comprise of ornamental and harmonious characteristics of appearance of an article.

5.3. A patent shall not be granted for a design solution related to utility of an article.

5.4. The following solutions shall not be considered as industrial designs:

5.4.1. a design which is identical with or similar to the national emblem, flag, banners, seals, decorations, orders of merit, medals, or national flags and emblems of foreign countries, or emblems and symbols of international organizations;

5.4.2. if it is contrary to public order or morality;

5.4.3. if it is detrimental to others’ business.

## **Article 6. Subject Matter and Requirements for Granting Utility Model Certificate**

6.1. A certificate shall be granted to a creator of a new utility model capable of industrial application, or to a natural or legal person to whom the rights have been assigned.

6.2. A utility model shall be regarded as “new” if it is not anticipated by the prior art.

6.3. A utility model shall be regarded “to be capable of industrial application” if it can be used in any kind of industry.

6.4. A utility model shall be regarded as “new” if its features were not publicly known prior to the filing date of the application.

6.5. The following shall not be considered as utility models:

6.5.1. a solution which was publicly known or worked in Mongolia prior to the registration of a utility model;

6.5.2. if it was published in this country or in a foreign country;

6.5.3. if it is contrary to the public order or morality.

6.6. The provisions of Article 4.7 of this Law shall apply *mutatis mutandis* to the grant of a utility model certificate.

## **CHAPTER TWO**

### **FILING AND EXAMINATION OF APPLICATIONS FOR INVENTIONS, INDUSTRIAL DESIGNS AND UTILITY MODELS**

#### **Article 7. Filing Applications for Inventions, Industrial Designs and Utility Models.**

7.1. An application for an invention, industrial design or utility model shall be filed with the Intellectual Property Office by a creator or a natural or legal person to whom the rights have been assigned.

7.2. A separate application shall be filed for each invention, industrial design or utility model. For inventions, industrial designs or utility models which have a single purpose and use, one application may be filed.

7.3. An application for an invention shall contain a request, a description of the invention, claim(s), an abstract as follows, a brief explanatory note and, if required, it shall be accompanied by relevant drawings and certificates from responsible organizations.

7.3.1. The description of the invention shall state essential features of the solution for which the invention is claimed and the relevant prior art, and disclose the invention in a manner sufficiently clear and complete so as to enable a person skilled in the art to practice it, and shall indicate the best mode known of carrying out the invention;

7.3.2. The claim(s) shall define the scope of legal protection and the indispensable features of the invention clearly and concisely. One invention may be defined in one or more claims;

7.3.3. The claim(s) shall be supported by a detailed description and drawings;

7.3.4. The purpose of the abstract is to give technical information and it shall not be used for defining the scope of legal protection.

7.4. An application for an industrial design shall contain a request, a drawing of the design, a description and, if required, the drawing and the description shall be accompanied by relevant materials.

7.5. An application for a utility model shall contain a request, a description, claim(s), an explanation and drawings. The claim(s) of the utility model shall define the scope of legal protection and essential features of that solution.

7.6. An application for an invention, industrial design or utility model shall state the names and addresses of the creator, applicant, agent, a request for the grant of a patent and the title of the invention, industrial design or utility model.

7.7. Where an application is filed by a person other than a creator, it shall be accompanied by a document justifying the right to obtain a patent or certificate.

7.8. In case of inventions, industrial designs or utility models which relate to human food supply or hygiene, a document issued by the organisation responsible for epidemiology and hygiene should be attached certifying that those solutions will not harm human body or health.

7.9. An applicant may claim priority of earlier national, regional or international applications, and, if so, a copy of such applications shall be attached.

7.10. Where a priority is claimed, an application shall be accompanied by an international search report or a preliminary examination report.

7.11. An application for an invention, industrial design or utility model shall be accompanied by a document certifying the payment of service fees.

7.12. An applicant may be represented by an agent.

7.13. Rights and obligations of an agent shall be defined by a power of attorney which complies with the requirements set forth in the Civil Law.

7.14. An application shall be made in Mongolian. Where it is made in a language other than Mongolian, an applicant shall furnish a Mongolian translation of the application within 2 months after the date of receipt of the application by the Intellectual Property Office.

7.15. If a translation has not been submitted within the time limit prescribed in Article 7.14 of this Law, the application shall be treated as if it had not been filed.

7.16. One application may be filed for up to 50 related industrial designs applied to articles under the same classification.

7.17. An applicant may withdraw his application at any time before a final decision is rendered.

### **Article 8. Procedure for Filing Applications for Inventions, Industrial Design or Utility Models by Electronic Means**

8.1. An application for an invention, industrial design and utility model may be filed by electronic means and it shall comply with the requirements set forth in Article 7 of this Law and regulations prescribed by the Intellectual Property Office.

8.2. An application under Article 8.1 of this Law may be presented on a floppy disk or through other electronic information means.

8.3. A filing date of an electronic application shall be accorded on the basis of a document bearing a number and signature of a receiving officer, where the application complies with the requirements set forth in this Law and accompanied by all necessary documents.

8.4. A decision related to an electronic application shall be delivered by electronic means and a Director General of the Intellectual Property Office may use electronic signature.

### **Article 9. Filing International Application under Patent Cooperation Treaty**

9.1. A filing date of an international application for an invention or utility model designating Mongolia shall be accorded under this Law or according to the date of international registration under the Patent Cooperation Treaty.

9.2. The Intellectual Property Office or the World Intellectual Property Organization shall act as a receiving Office in respect of an international application filed herewith by a citizen of Mongolia, a foreign citizen or a stateless person residing in Mongolia.

9.3. An international application filed with a receiving Office shall be made in a prescribed language and the prescribed transmittal fees under the Treaty shall be paid to the receiving Office.

9.4. The Intellectual Property Office shall act as a designated Office in respect of an international application which designates Mongolia in order to

obtain a patent for an invention or utility model certificate in the territory of Mongolia.

9.5. The Intellectual Property Office shall act as an elected Office in respect of an international application which designates Mongolia, where an applicant elects Mongolia for the purposes of international preliminary examination.

9.6. The elected Office shall receive a preliminary examination report within the time limit prescribed by the Treaty.

9.7. An applicant for an international application designating Mongolia shall, under the Patent Cooperation Treaty, pay the prescribed fees prior the preliminary examination.

9.8. The Intellectual Property Office shall process international applications in compliance with relevant law, treaty and regulations.

#### **Article 10. Filing Date of Applications for Inventions, Industrial Designs and Utility Models.**

10.1. The Intellectual Property Office shall, within 20 days from the date of receipt of an application for an invention or industrial design, or within 7 days from the date of receipt of an application for a utility model, examine the application as to form and, if the application complies with the requirements set forth in Article 7 of this Law and the formal requirements, it shall accord as the filing date the date of receipt of the application.

10.2. If the Intellectual Property Office finds that the application does not comply with the requirements set forth in Article 7 of this Law, it shall invite the applicant to make the required amendment or correction.

10.3. If the applicant makes the required amendment or correction to the application for an invention or industrial design within 3 months, or to the application for a utility model within 1 month from the date of receipt of the invitation referred to in Article 10.3 of this Law, the Intellectual Property Office shall accord as the filing date the original date of receipt of the application.

10.4. If no amendment or correction is made, the application shall be treated as if it had not been filed.

10.5. An applicant desiring to claim a right of priority shall, within 2 months from the date of registration of the application, submit a written statement to that effect and a copy of an earlier application.

#### **Article 11. Examination of Applications for Inventions and Industrial Designs.**

11.1. After a filing date has been accorded, an examiner of the Intellectual Property Office shall conduct a substantive examination of an invention or industrial design to determine whether there has been compliance with the requirements of Articles 4 and 5 of this Law.

11.2. The applicant shall furnish the Intellectual Property Office with information on any other application for a patent or other title of protection made in other countries or international organizations relating to the same or

essentially the same invention as that claimed in the application filed with the Intellectual Property Office.

11.3. At any time during the examination procedure or before a final decision is rendered, the applicant may amend or correct the application, provided that such amendment or correction shall not go beyond the scope of the matter disclosed in the description as originally filed.

11.4. If the amendment or correction is determined to have changed the substantial matter of the invention or industrial design, the applicant should file a new application.

11.5. The examination procedure, upon request of the applicant, may be deferred, provided that the duration of such deferral shall be limited by the time period prescribed by Articles 11.9 and 11.10 of this Law.

11.6. The applicant, during the examination procedure, may divide the application into 2 or more applications, provided that each divisional application shall not go beyond the scope of the matter disclosed in the original description, or may unify several applications for inventions, industrial designs or utility models which can be used in unity.

11.7. A filing date or a priority date, in case referred to in Article 11.6 of this Law, shall be the filing date of the first application.

11.8. A creator of a solution for an invention may, before a final decision is rendered, convert the application into an application for a utility model, or an application for a utility model into an application for an invention; in such case the filing date shall be the filing date of the first application.

11.9. The Intellectual Property Office shall reach a decision as to whether or not to grant a patent within 9 months from the filing date of the application.

11.10. If required, the Intellectual Property Office may extend this period for a further period of up to 12 months.

11.11. Where it is decided to grant a patent, claim(s) of an invention or a drawing of an industrial design and the bibliographical data concerned shall be published in the Patent Gazette.

11.12. Where a solution has been determined not to constitute an invention or an industrial design, or where it is not patentable, a decision of refusal to grant a patent shall be rendered and a copy of the examination report shall be sent to the applicant within 30 days from the date of the examination report, and the application shall be kept in the patent collection.

## **Article 12. Examination of Applications for Utility Models**

12.1. An examiner shall, within 1 month from the filing date, conduct an examination to determine whether there has been compliance with the requirements of registrability and the requirements of Article 6 of this Law and shall render a decision.

12.2. The provisions of Articles 11.2 and 11.3 of this Law shall apply *mutatis mutandis* to the examination of an application for a utility model.



## **CHAPTER THREE**

### **GRANT OF PATENT AND UTILITY MODEL CERTIFICATE**

#### **Article 13. Grant of Patent for Invention and Industrial Design**

13.1. A patent shall be granted if, within 3 months from the date of publication of the claim(s) of an invention or the drawing of an industrial design and the bibliographical data concerned, no opposition has been filed with the Intellectual Property Office or no dispute has been arisen.

13.2. Where an opposition is filed or a dispute arises during the period referred to in Article 13.1 of this Law, a grant of the patent shall be suspended until a decision thereon has been rendered in accordance with established procedure.

13.3. Where an opposition is filed by a natural or legal person or a dispute arises, a collegial body constituting of three examiners, not including the first examiner but giving him an opportunity to justify his decision, and a chief examiner of the Intellectual Property Office shall, within 30 days from the date of receipt of the complaint, review and rule on the matter.

13.4. An appeal against the decision referred to in Article 13.3 of this Law may be lodged with the Dispute Resolution Board under the Intellectual Property Office.

13.5. Patents granted for inventions and industrial designs shall be registered in the State Register and applications shall be kept in the patent collection.

#### **Article 14. Grant of Utility Model Certificate**

14.1. The Intellectual Property Office shall grant a utility model certificate within 1 month from the date of decision of an examiner to register the utility model.

#### **Article 15. Term of Patent and Utility Model Certificate**

15.1. The term of a patent for inventions and industrial designs and a utility model certificate shall be 20, 10 and 7 years respectively beginning from the filing date.

## CHAPTER FOUR

### RIGHTS OF CREATORS OF INVENTIONS, INDUSTRIAL DESIGNS AND UTILITY MODELS AND PATENT AND CERTIFICATE OWNERS

#### **Article 16. Rights of Creators of Inventions, Industrial Designs and Utility Models**

16.1. A creator of an invention, industrial design or utility model shall have the following rights:

16.1.1. own the invention, industrial design or utility model;

16.1.2. assign his right to obtain a patent or certificate to another person;

16.1.3. give title to the invention, industrial design or utility model;

16.1.4. take part and control in the working of technical documentation, testing and putting into production the invention, industrial design or utility model and evaluate his intellectual product;

16.1.5. receive a reasonable remuneration from profits of the exploitation of the invention, industrial design or utility model.

16.2. Co-authors of an invention, industrial design or utility model shall jointly enjoy the right to a patent.

16.3. A person, who provided assistance in working of technical documentation, financing or testing of the invention, industrial design or utility model, or in filing an application for the invention, industrial design or utility model shall not be regarded as a co-author.

16.4. Co-authors, unless otherwise provided in a contract, have equal rights in relations arising in connection with inventions, industrial designs or utility models and have the equal rights to apply for and obtain a patent or certificate, offer for exploitation, sell, assign to others and evaluate; each co-author shall not be entitled to any rights without the consent of other co-authors.

16.5. When two or more persons have independently created the same invention, industrial design or utility model, the right to a patent shall belong to the creator who has first filed the application with the Intellectual Property Office or, if the priority is claimed, to the creator who has filed the application with the earliest priority date.

16.6. The right to obtain a patent for an invention or industrial design or certificate for a utility model, which has been created in the course of execution of the official duties or contractual obligations, shall belong to the employer unless otherwise provided in the contract.

16.7. A creator has the right to apply for and obtain a patent, if the employer has not applied within 6 months after the invention, industrial design or utility model has been created.

16.8. When the creator has obtained a patent or certificate in his name as provided for in Article 16.7 of this Law, the employer shall pay to the patent or certificate owner a reasonable remuneration for the exploitation thereof on a contractual basis.

### **Article 17. Rights of Patent and Certificate Owners**

17.1. Patent and certificate owners shall have the exclusive right to own their invention, industrial design or utility model.

17.2. Inventions or industrial designs protected by a patent or utility model protected by a certificate shall be exploited only with the authorization of the patent or certificate owner.

### **Article 18. Exploitation of Inventions, Industrial Designs and Utility Models**

18.1. A patent or utility model certificate owner has the right to exclude others from making, selling or using a product containing an invention, industrial design or utility model, and from storing or exporting the product for that purpose.

18.2. The following exploitation of the invention or industrial design protected by the patent or utility model protected by the certificate shall not be regarded as an infringement of the exclusive rights of the patent or certificate owner:

18.2.1. the use of products put on the market in the country by the patent owner or by another person with the patent owner's consent;

18.2.2. the use for scientific research, education or experimental purposes;

18.2.3. the use on vehicles of other countries which temporarily or accidentally enter the territory of Mongolia;

18.2.4. the use for non-profit purposes.

18.3. The Intellectual Property Office shall establish the State Reserve Fund of Inventions to ensure the effective exploitation of inventions or industrial designs protected by patents or utility models protected by certificates.

18.4. The intellectual Property Office shall have the right to own a patent for an invention which form part of the Fund referred to in Article 18.3 of this Law on the basis of a contract concluded with the patent owner.

### **Article 19. License Agreement**

19.1. Any interested person may exploit an invention or industrial design protected by a patent or utility models protected by a certificate by concluding a license agreement with the patent or utility model certificate owner.

19.2. Under a license agreement, a patent or certificate owner shall give the permission to a licensee to exploit a protected creation, and the licensee shall be bound by obligation to make payment and other obligations specified in the agreement.

19.3. In a license agreement the following shall be specified:

19.3.1. the method, ways, limits, scope and duration of the exploitation of the invention, industrial design or utility model;

19.3.2. the rights and obligations of the contracting parties;

19.3.3. the amount and mode of payment for the exploitation of the invention, industrial design or utility model;

19.3.4. the liabilities of the contracting parties in case of non-performance;

19.3.5. the dispute resolution procedure.

19.4. In case of an exclusive license, a licensor shall, under the license agreement, give a licensee the exclusive right to exploit the invention, industrial design or utility model.

19.5. In case of a non-exclusive license, a licensor shall, under the license agreement, give a licensee the right to exploit the invention, industrial design or utility model and at the same time has the right to give a license to third parties for the exploitation of the patent or certificate rights.

19.6. A license agreement shall be made in a written form and shall be effected upon the registration at the Intellectual Property Office.

19.7. A license agreement made in violation of Article 19.6 of this Law shall not be valid.

19.8. A patent owner may request the Intellectual Property Office to give a license for the exploitation of his creation to any interested person.

19.9. It shall be prohibited to conclude a license agreement which restrain competition.

## **Article 20. Compulsory License**

20.1. Protected inventions, industrial designs or utility models may be exploited on the basis of a compulsory license by the decision rendered by the Intellectual Property Office and upon request of any interested person in the following cases:

20.1.1. where an invention, industrial design or utility model should be exploited for the purposes associated with the public interests such as national security or defense, food supply or health care;

20.1.2. where a creation has not been exploited for a period of 3 years from the date of the granting of the patent, provided that the patent owner has not been able to prove to the Intellectual Property Office the absence of conditions to exploit the creation;

20.1.3. where a patent owner considers that the exploitation by a licensee of an invention protected by a patent involves unfair competition.

20.2. Where a patent or utility model certificate owner disagrees with a decision of the Intellectual Property Office to give a compulsory license he may lodge a complaint with a court.

20.3. When a compulsory license agreement is concluded, the licensee shall make a payment to the patent or certificate owner for the exploitation of a creation protected by the patent or certificate.

**Article 21. Obligations of Patent Owners and Legal Persons with respect to Exploitation of Inventions, Industrial Designs and Utility Models**

21.1. Legal persons shall indicate the amount of profit gained from the exploitation of an invention, industrial design or utility model and the value of intellectual property in the balance sheet and shall keep the production in confidence.

21.2. The intellectual property valuation may be used in a property guarantee, shares, mortgage, privatization, auction, statutory fund, capital investment or insurance.

21.3. In case of change of ownership of a patent for an invention or industrial design or utility model certificate, the Intellectual Property Office shall be notified in a written form, and that change shall not be in conflict with the interests of any third party.

**Article 22. Inventions, Industrial Designs and Utility Models Related to State Secrecy**

22.1. Applications for inventions, industrial designs or utility models related to national security or defense, classified as extremely important, top secret or secret, shall, upon the registration with the Central Intelligence Office, be received by a chief examiner of the Intellectual Property Office and transmitted to a responsible examiner for the examination upon which a decision whether to grant a patent shall be rendered..

22.2. Inventions, industrial designs or utility models related to the state secrecy shall not be published.

**Article 23. Patent and License Fees**

23.1. In order to file an application for an invention, industrial design or utility model, maintain the patent or to register a license agreement, fees shall be paid to the Intellectual Property Office.

**Article 24. Time Limit for Payment of Patent Fees**

24.1. Patent maintenance fees shall be paid in the amount and at the time prescribed by the Law on Stamp Duties.

24.2. The maintenance fees for the first 3 years shall be paid within 6 months from the date of the decision to grant a patent; fees for subsequent periods shall be paid 6 months in advance for each period.

24.3. Where a patent owner does not pay fees within the time limit prescribed in Article 24.2 of this Law, a grace period of 6 months following the expiration of the payment period shall be allowed upon payment of the surcharge equivalent to the patent fees for that period.

24.4. Any interested person seeking to keep in force the patent may pay the patent fees with the consent of the patent owner.

## **Article 25. Revocation of Patents**

25. 1. Where a patent has been granted in violation of this Law, the Dispute Resolution Board or a court shall revoke a patent.

25.2. Where a patent has been surrendered, or fees have been refused to be paid or have not been paid within the time limit prescribed in Article 25.3 of this Law, the Intellectual Property Office shall cancel the patent.

25.3. In cases referred to in Articles 25.1 and 25.2 of this Law, the Intellectual Property Office shall record the corresponding changes in the State Register of inventions, industrial designs or utility models and publish notice thereof in the Patent Gazette.

25.4. Where an invention has not been exploited at all and where the patent owner has not been able to prove the absence of conditions to exploit the invention in Mongolia, the ownership rights to the patent for inventions, industrial designs or utility models which must be under the State control shall be transferred to the Intellectual Property Office.

25.5. A request for the revocation of a patent shall be made during the term of validity of the patent.

25.6. Where a patent is cancelled due to non-payment of the patent fees, the patent may be recovered upon the request of the patent owner made within the total term of the validity of the patent.

## **CHAPTER FIVE INTELLECTUAL PROPERTY OFFICE**

### **Article 26. Intellectual Property Office**

26.1. The Intellectual Property Office, a Government implementary agency, shall be in charge of inventions, industrial designs and utility models and shall carry out the following functions:

26.1.1. receive and examine applications for inventions, industrial designs and utility model and render decision thereon;

26.1.2. grant patents for inventions and industrial designs and utility model certificates;

26.1.3. keep the State Register of inventions, industrial designs, utility models and license agreements;

26.1.4. maintain a unified database on inventions, industrial designs and utility models;

26.1.5. publish information on inventions, industrial designs and utility models;

26.1.6. provide reference documents necessary for court hearings of disputes concerning inventions, industrial designs and utility models;

26.1.7. specify the layout of a patent and utility model certificate;

26.1.8. inform the relevant organizations in cases where a violation of the Patent Law by a legal entity or an individual is considered to have a place;

26.1.9. cancel or revoke a patent or utility model certificate on grounds set forth in this Law and in accordance with established procedure;

26.1.10. organize, within its competence, measures for the enforcement of the Patent Law;

26.1.11. receive and review requests and complaints concerning patents;

26.1.12. acknowledge the valuation of an invention, industrial design or utility model upon request of the creator;

26.1.13. carry out the state supervision on implementation of the intellectual property legislation and appoint state inspectors of intellectual property;

26.1.14. request any relevant documents from organization and officials on the matters concerned;

26.1.15. provide a uniform directive and methodological support for intellectual property training and research;

26.1.16. conduct examination of and cooperate with any citizen or legal entity intending to practice as a patent agent;

26.1.17. review disputes as set forth in this Law;

26.2. The Intellectual Property Office shall function on a self-financing basis.

26.3. A member of the Government in charge of intellectual property matters shall approve the amount of fees for services to be provided by the Intellectual Property Office.

26.4. Central and local organizations of public administration shall carry out the activities related to inventions, industrial designs and utility models as a part of their technological policy.

### **Article 27. Patent Agents**

27.1. A patent agent must be a citizen of Mongolia over the age of 25 years who has worked in the field of intellectual property for at least three years, with higher education and no previous criminal records.

27.2. A patent agent shall obtain a license in accordance with relevant legislation.

27.3. The Intellectual Property Office shall determine regulations on the operation of patent agents.

27.4. A patent agent shall provide the Intellectual Property Office with a report on his work regarding inventions, industrial designs, utility models or trademarks and 10% of the service fee shall be paid to the Intellectual Property Office.

## **CHAPTER SIX MISCELLANEOUS PROVISIONS**

### **Article 28. Review of Appeals and Disputes**

28.1. The Dispute Resolution Board of the Intellectual Property Office shall review any disputes except those claiming the payment for the exploitation of protected creations or the compensation for losses caused by illicit exploitation of protected creations and shall give written notice of its decision within 6 months from the date of receipt of the complaint.

28.2. In case of disagreement with the decision of the Dispute Resolution Board, an appeal may be lodged with a court within 30 days from the date of receipt of the decision.

28.3. A member of the Government in charge of intellectual property matters shall determine regulations on the operation of the Dispute Resolution Board.

### **Article 29. Liability for Violation of Patent Legislation and for Infringement of Rights of Creators and Patent Owners**

29.1. Where a violation of the patent legislation is held not to constitute a criminal offence, the following administrative sanctions shall be imposed:

29.1.1. a judge or state inspector shall impose on a citizen a fine equivalent to from twice to six times the monthly minimum wages, and on a legal entity a fine equivalent to from ten to twenty times the monthly minimum wages;

29.1.2. a judge shall order to arrest an offending citizen or official for 7-14 days;

29.1.3. a judge or state inspector shall order to confiscate illegal goods or articles, confiscate illegal revenues in favor of the state income, destroy the infringing goods and cease the activities;

29.2. Any person who infringes the rights of creators or patent owners shall be liable under the legislation of Mongolia.

29.3. Compensation for damages caused by the infringement of the rights of creators or patent owners shall be awarded by a court in compliance with the Civil Law.

### **Article 30. Retroactivity of Law**

30.1. This law shall not be applied retroactively.

CHAIRMAN OF THE  
STATE IKH KHURAL

TS. NYAMDORJ