

Law No. (14) for the year 2006

Amending some Provisions of Law Number (1) of the Year 2004

In respect of Patents and Utility Models

**We, Hamad Bin Issa Al Khalifa, the King of the Kingdom of Bahrain,
Having Examined the Constitution.**

Law No. (1) for the year 2004 pertaining patents and utility models;

**Law No. (19) for the year 2005 pertaining approval of the Kingdom's
accession to the Patent Law Convention and its Executive By-laws;**

**Law No. (44) for the year 2005 pertaining approval of the Kingdom's
accession to the Patent Cooperation Treaty and its Executive By-laws;**

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

Article (1)

The following Articles (2), (3), (4),(5), (6), (31), (14),16),(19), (21), (24), (25) items, and paragraphs (C) and (G), (26) , (29), (31), (32), (34), (36), (37), (38), (39), (40),(41) and (42) of Law No. (1) for the year 2004 pertaining to Patents and Utility models, shall be replaced with the following:

Article (2)

(a) An invention shall be considered new if not contained in previous industrial technology state.

(b) An invention shall be considered as involving an inventive step if it would not have been obvious to a person having ordinary skills in the art, subject of the patent.

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

(d) The patent shall not be granted if the Invention subject was disclosed to the public in the Kingdom of Bahrain or abroad in writing or verbally or by use or by any other method of realizing contents of the invention prior to the date of submitting the application for purpose of granting a patent or date of priority on request.

(e) For the purposes of clauses (A), (B), (C) and (D) of this Article, the following shall not be considered a Disclosure:

- 1- Disclosure of the invention to the public shall be inconsiderable if it took place at official international exhibitions or officially recognized exhibitions, pursuant to Article (34) of this law, subject to disclosure in the patent request of all details related to the said disclosure.
- 2- Disclosure of an invention shall also be inconsiderable, if it was disclosed by the applicant or by his permission or through him all of which the disclosure was conducted within the 12 months preceding submitting a patent applications or date of priority upon request.

Article (3)

(A) A patent shall not be granted in respect of:

- 1- Any invention which prohibition of commercial use in the Kingdom of Bahrain is imperative for the protection of public order or principles of morality; including the protection of humans life or health or that of animals or plants or to avert causing serious harm to the environment.
- 2- Animals
- 3- Diagnostic, therapeutic, and surgical methods necessary for the treatment of humans and animals. This provision however shall not apply to products used in any of these methods

(B) Without prejudice to the provisions of the previous Clause and Article (2) of this Law, the Patent may be granted for any use or method of use of a known product, including the product used in certain medical cases.

Article (4)

(A) The competent administrative authority pertaining industrial property shall set up a register named the "Patents Register" in which it shall record patents applications, all data pertaining thereto and all

acts affected thereon subject to the provisions of this law, its Executive By-laws and the decisions to be issued to implement it.

- (B) The existing Patent Register on the date of enacting this Law provisions shall be amalgamated in the register stipulated in the previous clause and shall be considered an indispensable part of it.

Article (5)

Pursuant to provisions of Chapter (6) of this Title, any Natural or legal person has the right to submit a patent registration to the competent industrial property administrative authority, and to acquire the rights resulting herewith in accordance with provisions of this Law, if that person is a national or a nationals of a country that is member in the Paris Convention for the Protection of Industrial Property, or nationals of any other country according to bilateral or international conventions observed in the Kingdom, or if such a person owned in that region a true and active industrial or commercial facility.

Article (6)

In case an application for a patent was filed at any member-state of the Paris Convention for the Protection of Industrial Property, or at any other country whose nationals enjoy national treatment by virtue of the bilateral or international conventions observed in the Kingdom; the applicant or the one who has acquired the rights thereof may within a period of six months following the date of that application submit a similar application with respect to the same patent applied for in the previous application, in accordance with the conditions, requirements and procedures stipulated by this law. In this case, the applicant or the person who acquired the rights enjoys the right of priority pursuant to provisions of the Paris Convention for the Protection of Industrial Property provided adherence to provisions of Article (4), Paragraph (d) of the said convention.

Article (13)

The following shall not be considered a violation of the rights conferred by a patent holder:

- a.** The use of the invention for non-commercial or non-industrial purposes
- b.** Others exploitation, in good faith, of the patent for industrial purposes or undertaking serious steps to that end prior to filing the patent application. In such case, notwithstanding the granting of the Patent, the third party is entitled to continue exploiting the invention for the needs of his facility only and to the same extent,

but may not transfer this right independently of the said establishment.

- c.** The use of patent articles on marine vessels registered by any of the member-states in the Paris Union for the Protection of Industrial Property whether the use was in the ship's body, machinery, equipment, tools or any other additional parts of it upon the vessel temporary or accidental entry in the waters of the Kingdom, provided the use of such means is confined to the needs of the vessel.
- d.** Use of the Patent means in manufacturing or operating aircrafts or land vehicles registered to the name of a member country of the Paris Union for the Protection of Industrial Property, or in the manufacturing of the vehicle spare parts upon accidental or temporary entry into the Kingdom.
- e.** Use of the Patent subject for purposes of supporting an approval to market a pharmaceutical product provided that the product is not manufactured, used or sold in the Kingdom unless it is for the sole purpose of meeting the terms of the approval to market the product upon elapse of the Patent protection period. In this case it is prohibited to export the product outside the Kingdom unless for the purpose of meeting the terms of approving the marketing of the product in the Kingdom.

Article (14)

- a.** The term of a patent shall be twenty years as of the date of filing the application thereof in the Kingdom, or date of priority as the case may be.
- b.** The patent protection period shall be extended, at the Patent owner request, as a compensation for the unreasonable delay in granting the Patent for reasons beyond his control. If this delay extends to a period exceeding 4 years from the date of submitting the Application in the Kingdom or that it extended for two years from the date of requesting an examination of the application, whichever is latter. Deeds of the patent applicant are not accounted for in calculation of the period.
- c.** The pharmaceutical product period of protection shall be extended, with what is deemed to compensate the Patent owner for unreasonable deductions in the actual protection period due to Marketing Approval procedures pertaining to the first commercial use of the product in the Kingdom.
- d.** The protection period of the new pharmaceutical product, which marketing was approved, shall be extended based on data pertaining to the safety or the effectiveness of the product itself or a similar

product in another country, including the attainment of evidences for marketing license, to adequately compensate the Patent owner for the unreasonable deduction in the actual protection period due to the marketing approval procedures whether in the Kingdom or abroad.

- e.** For purposes of clauses (C) and (D) of this Article, the term: “actual protection period” means the period extending from the date of the approving the product to the original date of the protection period expiry.
- f.** The protection period, based on the request of the patent owner, shall be extended when the patent was granted on basis of a patent granted in another country pursuant to provisions of Article (19 *bis*) of this Law, and this is for a period equivalent to the patent protection period, if it existed, by the other country.

Article (16)

- a.** An application for a patent shall be filed by the inventor or the one who has acquired the rights thereof at the competent authority on a special form designed for this purpose to which the set designs are attached, in accordance with the provisions prescribed in this Law and the requirements, conditions and procedures defined by the Executive By-laws. The application in particular shall entail details of the invention and the requested protection, and any graphics stipulated in the details or in any of the requests. The application details must entail sufficient and adequate disclosure of the patent. The patent subject of the request must also be sufficiently supported in terms of disclosure.
- b.** For purposes of the previous Clause, the application in particular shall disclose a detailed specification of the invention that gives full account of the subject invention and the best ways for one skilful in the art to implement and use it without the need for unnecessary experiments upon filing the application. The invention shall be considered sufficiently support in terms of disclosure when such a specification appears reasonable for one skilful in the art that the applicant acquired the proclaimed patent at the time of filing the application
- c.** Each request must clarify the required subject for protection, and it should be clear, concise, supported with the necessary details, and for one invention or a group of inventions that are interconnected forming a complete creative idea.
- d.** The Applicant shall comply with submitting all statements and data related to any previous applications submitted by him about the same patent subject abroad, and the decisions made thereof.

Article (19)

- a.** The competent administrative authority at the Ministry of Trade shall examine the patent application and the attachments thereof to verify that it meets the required conditions. It may request from the applicant – within thirty days as of date of receiving the application– to conduct further modifications and conditions as it sees appropriate to decide on it, provided it sets an appropriate appointment that must be communicated to the applicant. If the applicant failed to execute requests made by the competent administrative authority of industrial property on time, the application shall be considered void.
- b.** The aforementioned authority shall issue a decision on the patent application within sixty days as of date of receipt a complete application, or as of date conducting the modifications and receipt of fees necessary for deciding on it.
- c.** Upon issuing the decision of a patent registration it must be published in the official gazette. If granting the patent was rejected if must be a ground caused that must be communicated to the applicant immediately upon issuance by means of registered letter with receipt.
- d.** Post to the publication of the acceptance, any person may examine the patent application, supporting attached documents, and related particulars that were entered in the patents register.

Article (21)

Upon issuing a decision to grant the patent, the owner shall receive an official document duly sealed by the competent administrative authority of industrial property showing the details of the patent in the form specially designed by the authority for this purpose.

Article (24)

The competent Minister of industrial property may issue non-exclusive compulsory licenses to exploit an invention subject of the Patent without the consent of the owner, in any of the hereunder cases:

- a.** National emergencies, persisting necessity or for the purposes of non-commercial public utility provided that the patentee shall be informed of that, when possible, after granting the license.
- b.** Where the owner has not sufficiently exploited the patented invention with respect to the needs of local market at reasonable

prices - taking into account the counterpart prices prevalent in other countries- within three years of the date of patent registration or four years of the filing application whichever is longer. Even so, the competent minister of industrial property may grant the owner of the patent a grace period not exceeding two years to exploit the patented invention in the said form if the non-exploitation was beyond his control , or otherwise the Minister may issue a compulsory license for any person whom the patentee either denied licensing for exploitation or bound it to unfair commercial terms.

c. Where exploiting a patent involving an important technical advance of considerable industrial value is attained through exploiting another patent, the owner of the first patent may be granted a compulsory license to exploit the second patent. The exploitation authorized in such case may not be assigned except through the assignment of the first patent. The Second Patent owner may, in return, be granted a compulsory license to exploit the first Patent at reasonable conditions.

d. Where the patent owner exercises his rights in a way that prevents others from unfair competition.

Article (25)

Items (c) and (g)

(c) The applicant for a license shall be able to seriously exploit the patent through a firm established in the Kingdom, whether the license was issued for manufacturing or importing products subject of the patent.

(g) The licensee shall not assign the license of exploiting the patented invention except to the firm concerned with this exploitation or to the part related to the exploitation of the patent subject to the prior approval by the industrial property competent Minister.

Article (26)

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

license applicant of its decision within thirty days of issuance thereof. Such decision shall be recorded in the patent register and shall be published in the manner prescribed by the Executive By-laws.

Article (29)

Without prejudice to provisions of Article (36) of this Law, The industrial property competent administrative authority, at the request of any interested party may issue a ground caused decision to revoke the registration of a patent in cases where such a rejection to grant a patent is justified or if the patent was granted based on deceit, pretense or an unjust conduct. A fee shall be imposed on revoking of registration application and the Executive By-laws shall determine procedures to file this application or deciding upon it.

Article (31)

- a.** The industrial property competent authority shall set up a register named "The Utility Model Register" in which the accepted utility model patents, all details pertaining thereto and all actions affected thereupon shall be recorded, in accordance with the provisions of this law, its Executive By-laws and the decisions issued for its implementation.
- b.** The existing utility model patent register shall be amalgamated in the register stipulated in the above Clause and is considered an inseparable part of it thereof.

Article (32)

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

Article (34)

Temporary protection shall be granted to patents and utility models that satisfy the registration requirements of this law while being displayed in the official national exhibitions or officially recognized exhibitions held in the Kingdom.

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

Article (36)

Without prejudice to the provisions of Articles (20) and (38) of this Law; any concerned person may adjudicate in writing to the industrial property

competent any decision issued in accordance with the provisions of this law within thirty days of the date of being informed of the decision. The grievance shall be decided on and notified within sixty days as of the date of filing.

The petitioner may revoke the rejection decision before the Civil Supreme Court within sixty days of being informed of the rejection of his grievance. Revocation before the Court may not be applicable unless, the decision is adjudicated and the grievance is rejected or the lapse of the date specified for deciding it without notification.

Article (37)

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

Article (38)

a. Any person concerned may request, at any time, industrial property competent administrative authority, to add any detail to the Patent or Utility Model registers that may have been ignored or to omit or amend any detail that is non-compatible with reality or that has been unlawfully entered, as per the rules and procedures and methodology prescribed in the Executive By-laws.

b. The rules, procedures, and the dates stipulated in Article (19) of this law, pertaining deciding upon the applications mentioned in the previous Clause.

c. The industrial property competent administrative authority, at any time, may automatically issue a ground caused decision to add any statement to the Patent or Utility Model registers that may have been ignored or to omit or amend any detail that is non-compatible with reality or that has been unlawfully entered, as per the rules and procedures and methodology prescribed in the Executive By-laws.

Article (39)

a. The employees appointed and duly authorized by the industrial property competent minister to verify implementation provisions of this herein law, and the decisions issued in implementation of the Law, have the authority of entering stores of relation.

b. The employees who are a authorized by the minister of justice, in agreement with the industrial property competent minister shall

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

Article (40)

1. In the case of infringement or to prevent threats of infringement on any of the rights prescribed by this Law, the right owner may request an order in a petition from the chief of the court competent with the dispute source to take one or more precautionary measures as appropriate including the following:
 - a.** Making a detailed description of the, materials, machinery and equipment used or that have been used in the infringement act and keeping the pertinent evidence.
 - b.** Effecting precautionary seizure on the items mentioned hereinabove and the revenues ensuing from the claimed act of infringement.
 - c.** Prohibiting the infringing products which contain the claimed infringement from entering the commercial channels and prohibit their export, including the imported products that are released by the Customs department.
- b)** Stop or prevent the infringement.
- 2- The chief of the court may request the applicant to provide reasonable evidences that indicate the occurrence of an infringement of the right, or that the infringement is about to take place. The chief of the court may also require from the applicant to provide sufficient information to enable the competent authority to impose the precautionary measure pertaining to the goods in question.
- 3- The chief of the court shall decide upon the petition on an urgent basis within not more than ten days of the date of filing the petition, excluding exceptional cases estimated by the Chief of the Court.
- 4- The chief of the court, when necessary, may issue the aforementioned order at the request of the plaintiff–without summoning the other party; should there be a likelihood that any delay in issuing the order would lead to an inevitable damage on the part of the plaintiff or that it would lead to the destruction of the evidence- provided that the defendant shall be informed of the decision upon issuance thereof.

5- If the chief of the court ordered a precautionary measure without summoning the other party, the defendant may adjudicate the decision before the competent court within the ten days following the issuance of the decision, in the case of which the court may support the decision or abrogate it wholly or partially.

6- The head of court may require the applicant to provide a reasonable insurance or an equivalent guarantee which determined with the amount that is enough to protect the defendant and prohibits the abuse of this right, and in a way which does not result in refraining, in an unreasonable manner, from requesting of taking the referred to precautionary measures.

7- The chief of the court may request from the plaintiff to secure an adequate banking or an equivalent monetary guarantee sufficient to protect the defendant and prevent any abuse of the right, and in a manner that does not lead without reason to abandoning the petition to undertake the aforementioned precautionary measures.

8- For purposes of this Article, the patent is deemed valid unless otherwise proved.

Article (41)

Without prejudice to any more severe penalties provided for in any other law, any person who unlawfully and knowingly commits any of the hereunder acts shall be punished by imprisonment for a period not less than (3) months and not exceeding one year, and a fine of not less than 500 Dinars and not exceeding 2000 Dinars, or by either penalty:

- a)** Manufacturing, selling, offering for sale or distribution, or importing or obtaining for commercial purposes; products that contain a violation of any of the rules granted pursuant with the provisions of this Law.
- b)** Placing a statement on a product, an advertisement, a trademark, a container, packaging material, or otherwise; that would lead others to believe that a product is patented or registered as a utility model.

The court may also order the publication of the verdict in a local daily newspaper once or more at the offender expense.

If the violation is repeated, the penalty shall be doubled in both the minimum and maximum imprisonment and the closing of the commercial store or project, as may be the case, for not less than 15 days and not exceeding (6) months, and publishing the verdict in a daily newspaper once or more at the expense of the offender.

Article (42)

Without prejudice to the provisions of bilateral or international agreements observed in the Kingdom, industrial privileges pursuant to the applied laws and regulations prior to the date of applying this Law shall be granted the protection provided for in this law, and shall be deemed to be registered pursuant to its provisions, provided that the elapsed protection period is deducted from the protection period provided for in this law pursuant to the procedures and methods prescribed in the Executive By-laws.

Article (2)

The term "industrial property competent administrative authority" shall be replaced with the term "the competent authority at the Ministry of Trade" and the term "industrial property competent minister" with the term "Minister of Trade" wherever mentioned in the texts of the Law No. (1) for the year 2004 pertaining patents and utility models.

Article (3)

A new clause shall be added to Law No. (1) for the year 2004 pertaining patents and utility models, with the number (**h**) to Article (28) and other Articles with numbers (19 *bis*) , (40 *bis*), (41 *bis*), a new sixth chapter to the first Title " International registration and its articles from (29 *bis*) (29 *bis*) (7), which stipulates:

Article (28)

h) Issuing a decision to strike off a patented invention registration without submitting any grievances to that effect within the date stipulated in Article (36) of this Law, or the issuance of a decision revoking the grievance from the verdict to strike off the patented invention registration.

Article (19 *bis*)

The patent may be granted based on a Patent issued for the same invention in another country, in accordance with the conditions and procedures that are determined by a decision issued by the industrial property competent minister.

Article (40 *bis*)

- a)** Any person who suffered a direct damage resulting from the violation on any rights given in accordance with the provisions of this Law, may file a complaint at the competent court demanding the following:

- 1- A Compensation to repair the damages caused by the violation.
- 2- The revenues gained by the offender from the infringement and were not taken into account when the compensation was calculated.

The Court shall estimate the adequate compensation resulting from the damage in accordance with provisions of Articles (161) and (162) Clause (**A**) of the Civil Law, while considering the value of the product or service–Subject of the infringement- in accordance with what is specified by the plaintiff pertaining the retail price or any other standard required to be implemented or through an expert opinion.

b) The court may force the defendant, who is proved guilty, to present to the court or to the patent owner, any information he may have concerning a person/(s) or entities that contributed to any of the infringement elements, and the means of production or distribution channels of products or services, including the identity of each contributor in the production or distribution of products or services, and specifying the each distribution channel.

Article (41 bis)

Without detriment to any more severe penalty provided for in any other law:

- a.** Any person who violates the order issued to him by the court shall be punished with imprisonment for a period not exceeding one month or with a fine not exceeding (300) Dinars, pursuant to clause (**B**) of Article (40 *bis*) of this Law.
- b.** Any of the parties involved in the litigation, legal aides, or experts who violate a court order concerning the protection of classified information that are disclosed or exchanged during the court proceedings, shall be punished with a fine not exceeding (1000) Dinars.

Chapter Six

International Registration:

Article (29 bis)

In implementing provisions of this chapter, the following words and terms shall have the meanings shown next to each of them, unless the context otherwise stipulates:

- Treaty: Patent Cooperation Treaty.

- International Union: the International Cooperation Union on Patents which membership entails the member-states signatories of the Convention
- International Office: International Office of WIPO
- International Request: the registration application filed pursuant to provisions of the Convention.

Article (29 bis) (1):

Any natural or legal person has the right to file an international application at the industrial property competent administrative authority and the Application ensuing rights in accordance with the provisions of the Convention and its implementing regulations if he was:

- 1- A citizen or a resident in the Kingdom
- 2- Foreigners who are nationals of any of the member states in the International Union or residing thereof.
- 3- Foreigners who are nationals of any of the member-states in the Paris Convention for the Protection of Industrial Property or residing thereof, if the country was not a signatory of the Convention when the International Union Association decides to allow so

Article (29 bis) (2):

a) Subject to provisions of Article (29 bis) of this Law, an international application may be submitted to the industrial property competent administrative authority in its capacity as the international applications receipt office.

The Application shall be written in Arabic, and may be written in English provided an Arabic translation is attached thereto.

- b)** A fee should be set on the international application that must be paid within a period not exceeding twelve months from the date of filing the application.
- c)** The industrial property competent administrative authority shall examine the international application to ensure it meets all requirements stipulated in Article (11), and it may require from the applicant modifications or complete other procedures it deems necessary in order to issue a decision provided a date is set to notify the applicant.

d) If the applicant did not conduct the tasks assigned by the industrial property's competent administrative body or failed to pay the international application fees on the set date, then the international application will be annulled.

Article (29 bis) (3)

(A) Whereas the international application meets all requirements, the industrial property competent administrative authority shall forward the application to both the International Office and the international research administration referred to in Article (16) of the convention, while maintaining a copy of the application.

(B) The date of filing the international application at the industrial property competent administrative authority, if it fulfilled all requirements, or the date set for submitting the required amendments are thereto considered, as it may be the case, the international filing date and it has the same effects as the ones resulting from a national one, in accordance with provisions of this Law.

Article (29 bis) (4):

If the Kingdom of Bahrain was specified, in accordance with the international application, as the country in which the invention is protected or as a selected country, the applicant must submit to the industrial property competent administrative authority a copy of the international applications translated into Arabic, and in both cases a fee is prescribed that must be paid within not more than (30) months as of date priority.

Article (29 bis) (5)

The industrial property competent administrative authority may not perform the following:

a) Permit others, without the owner request or his previous consent, to examine the international application before any of the following, whichever comes first:

1- International publication date pertaining the international application in accordance with the provision of Article (21) of the Convention.

2- Date of receiving the notification about the international application in accordance with the provision of Article (20) of the Convention.

3- The date of receiving a photocopy of the international application in accordance with (22) of the Convention.

b) To publish an international application or a translation thereof prior to the international publication, or before the elapse of twenty months from the priority date if the international publication was not conducted during that period.

Article (29 bis) (7):

The international application is considered annulled in any of the case stipulated in Article (24) of the Convention.

Article (4)

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

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

Issued in Riffa Palace:

1st of Jumada al-awwal 1427 A.H

28th of May 2006