MONGOLIA

Law ON PATENT

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CHAPTER I GENERAL PROVISIONS

Article 1. Purpose of the Law

1.1. The purpose of this law is regulating relations in regard to granting patents for inventions, utility models, and industrial designs, protecting the rights of inventors and patent holders, use of patented inventions, utility models, and industrial designs, and to support innovative activities and industrial development.

Article 2. Legislation on Patent

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

2.2. If an international treaty to which Mongolia is party provides other than this law, the provisions of the international treaty shall prevail.

Article 3. Definitions of Terms

3.1. The definitions of terms contained in the Law shall have the following meaning:

3.1.1. "official periodicals" means the term specified in Article 3.1.4 of the Law on Intellectual Property;

3.1.2. "filing date" means the date on which an application for a patent that ensures with the requirements set forth in this Law is received at the state administrative body in charge of intellectual property matters;

3.1.3. "utility model" means a technical solution related to the composition of tool and equivalent products;

3.1.4. "industrial design" means artistic solutions of shapes, designs, forms, colors, textures and ornaments related to the appearance of the product;

3.1.5. "international classification for industrial design" means the international classification of industrial designs as adopted and amended by the Locarno Agreement of 1968 on establishing the international classification of industrial designs;

3.1.6. "The Hague Agreement" means the Geneva Act of the Hague Agreement Concerning on the International Registration of industrial designs adopted and amended in 1999, and the rules, regulations and instructions that follow thereof;

3.1.7. "priority date" means the date on which one or more patent

applications filed in a country that is a member of the Paris convention or World trade organization before the filing date of the patent application and which considered by the time period specified by Article 4 of the Paris Convention;
3.1.8. "inventor" means a person who invented an invention, utility model and industrial design;
3.1.9. "international application" means an international application for invention, utility model which is filed according to the Patent Cooperation Treaty, or an application for an international registration of industrial designs which is filed according to the Hague agreement;
3.1.10. " Paris convention" means the Paris convention for the protection of industrial property adopted, amended and revised on March 20, 1883;
3.1.11. "patent" means that the solution is defined as an invention, utility model, and industrial design and the patent holder has the right to enjoy the exclusive rights specified in Article 46.2 of this law for a fixed period of time;
3.1.12. "patent application" means composition of requests, applications and other related documents issued by citizens and legal entities in accordance with this law;
3.1.13. "International patent classification" means the International Patent classification as adopted and amended by the Strasbourg Agreement on International Patent Classification of 1971;
3.1.14. "Patent Cooperation Treaty" means the Patent Cooperation Treaty adopted and amended in 1970, and the rules, regulations and instructions that follow thereof;
3.1.15. "patent holder" means individual and legal entities who have acquired the exclusive right to own invention, utility model, and industrial designs protected by patents in accordance with regulation prescribed by law;
3.1.16. "examiner" means the person specified in Article 15 of the Law on Intellectual Property;
3.1.17. "invention" means a technical solution related to a product, production methods and operation which is determined and invented on the basis of a law of nature;

CHAPTER II PROTECTION OF INVENTIONS AND UTILITY MODEL

Article 4. Protection of inventions and utility model

4.1. According to this law, inventions and utility model shall be protected by patents issued by the state administrative body in charge of intellectual property matters (hereinafter referred to as "intellectual property organization").

Article 5. Invention Patent subject matter and patentability

5.1. Inventions and technical solutions related to products, methods and operations that contain the level of invention and can be used in production are considered inventions and are protected by patents.

5.2. A technical solution is not anticipated from prior art is considered as "new", and the following conditions apply to the technical prior art:

5.2.1. a solutions or knowledge that have been published, used, or disclosure in Mongolia or foreign country, orally, in writing, or in any other form, before the filing date or priority date of the invention;

5.2.2. inventions and utility models filed in Mongolia by other parties before the filing date of the invention, or prior to the priority date, published in official periodicals, and patented.

5.3. If, within 12 months prior to the filing date of the application, the inventor or the person who directly or indirectly obtained the information made public without the consent of the applicant, this shall not be a condition for rejecting the criteria of being new, and the applicant shall be responsible for proving it.

5.4. A solution proposed by an invention shall be deemed to contain an inventive step if it has an advantage that is clearly distinct to a person skilled in the art compared to the prior art prior to the filing date or the priority date. When determining the level of invention, the provisions of Article 5.3 of this Law shall not apply to the level of prior art.

5.5. An invention is considered industrially usable if it can be produced or used in any industry.

Article 6. Subject matter shall not be deemed invention

6.1. The following subject matter shall not be deemed inventions:

6.1.1. discoveries, scientific theories and mathematical methods;

6.1.2. computer programs, algorithm alone;

6.1.3. a scheme, rule and methods for economic and business activities, education, performing mental act and playing game;

6.1.4. planning and organization of building facilities, land and site;

6.1.5. an artistic solution related to the appearance design and shape of the product.

6.2. The fact that a computer program or algorithm is a component of an invention does not preclude it from being protected by a patent.

Article 7. Subject matter not patentable

7.1. The following subject matter shall not be patentable:

7.1.1. if the publication or into economic circulation of the invention contrary to public order, morality, human and animal health, and environment;

7.1.2. plants and animals and their variety, and essentially biological processes of producing plants and animal and their variety other than micro-organism;

7.1.3. plant sort and animal species;

7.1.4. method for therapeutic and surgical treatment of humans or animal organisms;

7.1.5. the process for cloning human beings, modifying the genetic natural identity and method for use of human embryos for industrial and commercial purposes.

7.2. Non-biological and microbiological process shall not be related to Article 7.1.2 of this Law.

7.3. The Article 7.1.4 of this Law shall not apply to the products, diagnostic tools, devices, substances, compounds, or compositions used in human, animal, or animal body treatment, surgery, or diagnosis.

Article 8. Utility model Patent subject matter and patentability

8.1. Patent shall be granted for utility model that is new and is capable of industrial application.

8.2. Utility model shall be considered as new according to the Article 5.2 of this Law.

8.3. Utility model shall be considered as capable of industrial application and shall be referred in according to the Article 5.5 of this Law.

Article 9. Subject matter shall not be deemed utility models

9.1. Subject matter according to the in Article 6.1 of this Law shall not be deemed utility model.

9.2. Subject matter according to the in Article 6.2 shall be apply equally to utility model.

Article 10. Subject matter shall not be issued utility models patent

10.1. The following subject matter shall not be issued utility model patent:

10.1.1. processes methods and operations;

10.1.2. substances, composition and chemical composition;

10.1.3. solution specified in Article 7 of this law.

Article 11. Patent rights

11.1. Inventor of an invention and utility model or individual and legal entities transferred the rights from inventor shall be entitled the patent.

11.2. Employers shall be entitled a right to enjoying patent for invention and utility model at the place of employment.

11.3. Inventions and utility models are created in accordance with agreements, and patents rights shall be granted to subscriber or financer unless otherwise stated in the contract.

11.4. If inventions and utility models are co-authored, the patent rights shall be enjoyed jointly. Persons that showed technical, organizational, and financial assistances for creation of inventions and utility model or persons that assisted in patent application filling and in obtaining the patents shall not be considered as co-authors.

11.5. If similar inventions and utility models are created

independently, person who filed the patent application first shall enjoy the patent
rights.

Article 12. An inventions and a utility model in the place of employment

12.1. The following conditions shall be considered as invention and utility model in the place of employment:

12.1.1. invented by an employee in the accomplishment of duties in accordance with terms of employment contract concluded between the employee and employer.

12.1.2. invented by an employee in the accomplishment of the employee's work-related duties assigned by the employer;

12.1.3. invented by an employee through usage of the employer's technology, equipment, raw material, information, experience and other reserve.

12.2. The employee, who invented the inventions and utility model shall be informed to the employer immediately in written form.

12.3. When employer refuses to file for the patent or fails to file an application within 3 months after received a notice stipulated in Article 12.2, the employee shall enjoy the patent rights.

12.4. If the employer wishes to obtain a patent for an invention and utility models created in the place of employment, except when the responsibility for invented inventions and utility model is assigned to the employee by the employment contract and appropriate remuneration is paid, the employer shall sign a contract with the inventor and pay appropriate fees.

12.5. Within six months upon obtaining the patent for invention and utility model in the place of employment, or within one year in case of using the utility model and invention before obtaining the relevant patents, the Employer shall conclude a contract set forth in Article 12.4 of this law with the inventor-employee; and the contract shall regulate payment terms, amount, and procedure to grant the payment. The economic valuation, available profits, and contributions of both parties shall be considered to set the payment rate of the invention and utility model.

12.6. If the contract stipulated in Article 12.4 of this law shall not be concluded, the employee may file to court in order to be determined a payment rate and to be assigned to conclude a contract.

12.7. In cases, except those stipulated in this Article, the patent right for utility model and invention shall be enjoyed by the inventor- employee.

Article 13. An invention and utility model invented by subscription of the Government and funded by state and local budgets

13.1. When inventions and utility models invented as a result of scientific research, experimental, and invention works made and performed by the subscription of the Government and funded through state and local budget, it shall be notified in written form to Subscriber immediately.

13.2. Unless otherwise stated in the contract, the subscriber shall enjoy the right to obtain a patent for an inventions and utility models as a result of scientific research, experimental, and invention works performed by the subscription of the Government and funded through state and local budgets.

13.3. When the contract states that inventor shall enjoy the right to obtain a patent for an invention and utility model invented as a result of scientific research, experimental, and invention works made and performed by the subscription of the Government and funded through state and local budgets, the right to obtain a patent shall be transferred to the inventor on the basis of the rights transfer contract.

13.4. When the contract states that for and on behalf of the state, the subscriber shall enjoy the patent right for an inventions and utility model made as a result of scientific research, experimental, and inventing works made and performed by the subscription of the Government and funded through state and local budgets. The Subscriber shall submit a patent application to the intellectual property organization within six months after receiving of the notice specified in Article 13.1 of this Law.

Article 14. Mentioning the inventor's name

14.1. Unless the inventor makes a written request to intellectual

property organization on refusal to mention his/her name, the name of inventor shall be mentioned in the patent application, patent of inventions and utility model, and official periodicals.

CHAPTER III APPLICATIONS FOR PATENT OF INVENTIONS AND UTILITY MODEL, ITS SEARCH AND EXAMINATION

Article 15. Filing of applications for patents of inventions and utility model

15.1. The person specified in Article 11.1 of this law shall submit application for patent of invention and utility model to the intellectual property organization in paper or electronic form.

15.2. An applicant may be represented through intellectual property agent when filing an application for patent.

15.3. Foreign citizen, stateless person or foreign legal entity who does not resided permanently in Mongolia or is not engaged in activities in Mongolia shall be represented through intellectual property agent when filing an application for patent of invention and utility model.

15.4. The application for patent shall be filed for each invention, and the application for patent may be filed for two or more inventions that have the single purpose and used in unity.

15.5. The application for patent shall be filed for each utility model, the application for patent may be filed for two or more utility models that have the single purpose and used in unity.

Article 16. Applications for patents of inventions and utility model

16.1. The applications for patents of inventions and utility model shall contain the followings:
16.1.1. request to the grant of patent in accordance with the form issued by the Intellectual property organization;
16.1.2. a description;
16.1.3. claim;
16.1.4. drawings and schemes explaining of invention and utility model essence in case of necessity;
16.1.5. an abstract;
16.1.6. a document confirming the payment of the prescribed fee;
16.1.7. evidence for the rights of application for a person, who is not an inventor, makes an application;
16.1.8. guarantee on authorship in accordance with the form issued by Intellectual property organization;

16.1.9. power of attorney if the applicant is represented by the intellectual property agent ;
16.1.10. evidence for priority rights if the priority rights were requested.

16.2. The request specified in Article 16.1.1 of this Law shall reflect the followings:
16.2.1. request for patent;
16.2.2. name of invention and utility model;
16.2.3. international classification of patent;
16.2.4. surname, given name, permanent address, citizenship, and signature of the applicant if the applicant is a natural person;
16.2.5. proper name, type of proprietorship, official address, country of establishment, country of operational activities, signature of the competent official, seal and stamp, if the applicant is a legal entity;
16.2.6. surname, given name, permanent address, and citizenship of inventor;
16.2.7. surname, given name, permanent address, citizenship, and signature of the patent holder if the patent holder is a natural person;
16.2.8. proper name, type of proprietorship, official address, country of establishment, country of operational activities, signature of the competent official, seal and stamp of the patent holder if the patent holder is a legal entity;
16.2.9. name, surname, license number, address and signature of an intellectual property agent, if the the applicant is represented by the intellectual property agent;
16.2.10. notice in case of request for priority rights;
16.2.11. list of attached documents and number of pages.

16.3. An application for patent of invention and utility model shall be made in Mongolian language.

16.4. When filing an application for patent of invention and utility model, the documents specified in Articles 16.1.2, 16.1.3, and 16.1.5 of this Law are filed in other language, these documents shall be translated into Mongolian within two months after the filing the application for patent.

16.5. The applicant may make a request for extension of the deadline

period specified in Article 16.4 of this Law for one-month period, in this case the relevant service fee shall be paid.

16.6. If the applicant fails to submit translation into Mongolian of the documents specified in Articles 16.1.2, 16.1.3, and 16.1.5 of this Law within the deadline specified in Articles 16.4 and 16.5 of this Law, it shall be considered as a decline of patent application by the applicant, the patent application shall be rejected, and it will be notified in the paper or electronic form to the patent applicant.

16.7. Applicant shall file the documents specified in Articles 16.1.7, 16.1.8 and 16.1.9 of this Law during the filing process of application for patent of invention and utility model or within 2 months after the filing date of application.

16.8. Applicant may make a request to extend the period specified in Articles 16.7 of this Law for up to one month period, in this case the relevant service fee shall be paid.

16.9. Requirements for the application for the patent of invention and utility model, and regulation on registration of the patent application, and making amendment to them shall be adopted by Intellectual property organization.

Article 17. A description for invention and utility model

17.1. Description for invention and utility model shall be a complex information that describes fully and clearly the distinguishing features of the solution from other previous technical and technological levels in a clear comprehensive way which can be implemented by professional people of the relevant sector. Description for invention and utility model shall contain the followings:

17.1.1. name of solution;
17.1.2. applicable and related sectors for the solution;
17.1.3. essence of solutions similar to the proposed solution;
17.1.4. disadvantages of similar solutions;
17.1.5. purpose of the proposed solution;
17.1.6. essence of the proposed solution;
17.1.7. Methods to implement the proposed solution into reality;
17.1.8. drawings to describe the essence of the solution in case of

necessity.

17.2. Name of the invention and utility model must be brief, exact and definition of the terms shall be adhered relevant international classification of patents and it must not be abstract or symbolic.

17.3. When biological and genetics reserves of Mongolia and the relevant traditional knowledge are used and exploited directly and indirectly for the creation of the invention or are used for the exploitation of invention, their origin shall be clearly emphasized in the description of invention.

17.4. Failure to emphasize or provision of false information on biological and genetics reserves of Mongolia and the relevant traditional knowledge that are used and exploited directly and indirectly for the creation of the invention or are used for the exploitation of invention shall be grounds to refuse from granting the patent or to invalidate the granted patent by intellectual property organization.

Article 18. Formulation of invention and utility model

18.1. Invention and utility model may have one or more main claim and one or more auxiliary claim depending on the main claim.

18.2. Formulation for invention and utility models shall meet the following requirements:

18.2.1. claim must be clear, comprehensive, and brief so that it describes distinguishing feature and scope of rights protection of invention and utility models;

18.2.2. features specified in the claim must be fully reflected into the description.

Article 19. An abstract

19.1. The purpose of the abstract is intended to provide technical information about the invention and utility model.

19.2. Abstract of utility model shall have an attachment of drawing that describes and expresses the main feature of the utility model.

19.3. In case of necessity, abstract of invention shall have an attachment of drawing that expresses the main feature of the

invention.

Article 20. Drawings and schemes

20.1. In case of necessity to explain the essence of invention completely, the object drawings or technological scheme shall be attached.

20.2. It shall attach necessary amounts of drawings that can explain the essence of utility model completely.

Article 21. Request for priority right and acceptance of priority right

21.1. An applicant may request for priority right in accordance with Article 4 of Paris Convention, based on patent application related one or more invention or utility models patent applications that grounded of priority right issued by a member country of the Paris Convention or the World trade organization.

21.2. The priority right specified in Article 21.1 of this Law shall be valid for 12 months that shall be calculated in accordance with Paris Convention.

21.3. The applicant may request for the priority rights within two months' period from the filing date of the application or from the date of receive the international application in Mongolia, in which case, the relevant service charge shall be paid.

21.4. Patent application, which is basis of priority right, shall be filed in a country specified in Article 21.1 of this Law or an international application for invention or utility model filed in accordance with Patent cooperation treaty.

21.5. If the applicant requests the priority right for the patent application, shall attach the evidence of priority right granted by authorities accepting the patent application.

21.6. Applicant may request for the priority right for the exhibition within 12 months from the date of public display if the applicant displayed his/her inventions and utility models in official and officially authorized international exhibitions that are organized in the territory of the World Trade Organization's or

Paris Convention's member countries.

21.7. Priority date's evidence shall be attached into the patent application, in case of failure to attach the evidence, the evidence can be filed within two months from the filing date of patent application. In case of reasonable excuses, the applicant may request an extension of this period up to three months, in which case, the relevant service charge shall be paid.

21.8. Failure to file the evidence of priority rights within the period specified in Articles 21.7 of this Law shall be considered as absence of the request for the priority right.

Article 22. Setting the filing date of patent application for invention and utility model and examination the completeness of the application

22.1. Intellectual Property Organization shall inform the applicant or intellectual property agent (hereinafter referred to as "Applicant") of invention and utility model within three working days from the date of receipt of application.

22.2. Intellectual Property Organization shall review whether the patent application for an invention and utility model complies with the requirements specified in Articles 16, and 21 of this Law within 10 working days from the date of receipt of patent application.

22.3. When Intellectual Property Organization determined the filed application satisfied with the formality requirements for a patent application for an invention and utility model, the filing date shall be approved by the date of receipt of application and the notification on the registration of the application into the state register shall be informed to the applicant.

22.4. When Intellectual Property Organization considers that required condition of the patent application for an invention and utility model cannot meet, the Intellectual property organization shall send the written or electronic notification to the applicant for amendments and changes, and the applicant shall make the relevant amendments and changes within two months after receipt of such notice.

22.5. The applicant may make a request to extend the terms specified in Article 22.4 of this Law for a period of up to three months , in which case, the relevant service charge shall be paid.

22.6. If the applicant fails to make amendments and changes within the period specified in Articles 22.4 and 22.5 of this Law, Intellectual Property Organization shall consider it as the refusal from the application by the applicant, and deliver a notice on the rejection of the patent application to the applicant.

22.7. When amendments and changes made within the period specified in Articles 22.5 and 22.6 of this Law, however they cannot meet the requirements for the application procedure, Intellectual Property Organization shall deliver to the applicant a notification to enhance the application requirements, whereas the applicant shall deliver back with the relevant amendments and changes within 15 working days upon receipt of the requirements. In which case, the relevant service charge shall be paid.

22.8. In order to conduct a review that whether the patents application meets requirements specified in Articles 6, 7, 9, 10, 17, 18, 19 and 20 of this Law, the Intellectual Property Organization shall conduct examination on the invention application form within four months from the date meeting requirements specified in Article 22.2 of this Law, and conduct examination on the utility model application form within two months from the date of meeting the requirements specified in Article 22.2 of this law.

22.9. When the invention and utility model being promoted does not meet the requirements specified in Articles 6, 7, 9, and 10 of this law, the Intellectual Property Organization shall dismiss the patent application and deliver a notice to the applicant.

22.10. If Intellectual Property Organization considers that the description, claim, abstract, drawings and schemes of the invention and utility model do not meet requirements stipulated in Articles 17,18, 19, and 20 of this law, a notification to make amendments and changes to the patent application shall be delivered to the applicant.

22.11. When the applicant fails to make amendments and changes

within two months' period from the date of receipt of the notice stipulated in Article 22.10 of this law, it shall be considered that the patent application was withdrawn. The relevant notice shall be granted to the applicant.

22.12. The applicant may make a request to extend the terms specified in Article 22.11 of this Law for a period of up to three months for the invention, and for a period of up to one month for the utility model, in which case, the relevant service charge shall be paid.

22.13. When amendments and changes made within the period of term specified in Article 22.11 and 22.12 of this Law, but do not meet the requirements specified in Articles 17, 18, 19 and 20 of this Law, Intellectual Property Organization shall make a notice to the applicant, and the applicant shall make the relevant amendments and changes within 15 working days upon receipt of the notice. In which case, the relevant service charge shall be paid.

22.14. If amendments and changes are not submitted within the period of term specified in Article 22.13 of this Law, it shall be considered as a refusal from the patent application; therefore, it shall be informed to the applicant in notice.

22.15. If it is considered that the patent application fully meets the requirements specified in Articles 17, 18, 19, and 20 of this Law, a conclusion on examination of completeness of the patent application shall be issued, and it shall be notified to the applicant.

22.16. Intellectual Property Organization shall deliver a notice specified in Articles 22.1, 22.3, 22.4, 22.6, 22.7, 22.9, 22.10, 22.11, 22.13, 22.14, and 22.15 of this Law to the applicant in written or electronic form.

Article 23. Division, merge, amendment, transfer and refusal of patent application on invention and utility model

23.1. After the filing date, the applicant may, at any time during the essence examination process, make the following changes to the content of the description and scope of claim which were filed initially, and in which case, the relevant service charge shall be

paid:
23.1.1. to file a request to divide the patent application into two or more patent applications;
23.1.2. to unite/merge the several applications on inventions to be exploited together;
23.1.3. to unite/merge the several applications on utility models to be exploited together;
23.1.4. to amend or change to patent application;
23.1.5. to transfer the invention patent application meets the requirements specified in Articles 8, 9, and 10 of this Law to a utility model patent application;
23.1.6. to transfer the utility model patent application meets the requirements specified in Articles 5, 6, and 7 of this Law to an invention patent application.

23.2. Each divided patent application shall be entitled to hold the filing and priority date of the originally filed patent application. Fee for each divided patent application shall be paid.

23.3. Applicant may withdraw the patent application anytime during the essence examination process from the filing date.

23.4. When the patent application is dismissed in accordance with Article 23.3 of this Law, it is not disclosed publicly, the given patent application shall not be involved into previous/prior technical level; therefore, the said application for patent of utility model and invention may be filed again newly.

23.5. If the changes specified in Article 23.1 of this Law change the content of the originally submitted description, a new application shall be filed.

Article 24. Examination of a patent application for invention and utility model, and their publication

24.1. Intellectual Property Organization shall examine and make reports to set previous technical level of the inventions and utility models.

24.2. After the issuance date of the examination conclusion on the application completeness specified in Article 22.15 of this Law , the invention search report shall be prepared within nine months and

the utility model search report within one month, and delivered to the applicant.

24.3. Applicant shall make amendments and changes within three months from the date of receipt of the search report within the scope of the patent application description for inventions and utility models.

24.4. Applicant may file a request for the extension of the term specified in Article 24.3 of this Law up to 3 months' period and in which case, the relevant service charge shall be paid.

24.5. The report of the search shall not consider a background to dismiss the invention and utility model's patent applications or to refuse from granting with patents.

24.6. Intellectual Property Organization shall publish invention's bibliography, description, claim, abstract, drawings and schemes together with the invention search report in the official periodicals within 30 days from the submission date of of the invention search report to the applicant.

24.7. Intellectual Property Organization shall not disclose information on the patent application to third parties before the publication specified in Article 24.6 of this Law, and keep the content confidentiality of the patent application.

24.8. Inventions published in official periodicals are granted provisional protection until the grant of a patent, during this period it is prohibited to use the invention in any form without the permission of the applicant.

Article 25. Examination of essence of a patent application for invention and its publication

25.1. Intellectual Property Organization shall examine the essence of the patent application for invention based on the request of the applicant.

25.2. Applicant shall file a request for an essence examination to the Intellectual Property Organization within 15 months from the filing date and shall pay a service fee.

25.3. If the Intellectual Property Organization receives the request specified in Article 25.2 of this Law, the examination of essence of the patent application for invention shall be made within 12 months from the date of its publication in the official periodical in accordance with Article 24.6 of this Law.

25.4. In order to determine whether the solution of the proposed invention meets the requirements specified in Articles 5, 6 and 7 of this Law, Intellectual Property Organization shall examine the essence, then the report together with the examiner's opinion shall be delivered to the applicant.

25.5. If the solution of proposed invention meets the requirements specified in Articles 5, 6 and 7 of this Law, the Intellectual Property Organization shall publish invention's bibliography, description, abstract and claim in the official periodicals within 30 days from the delivery of the result of the search report together with the examiner's opinion to the applicant.

25.6. During the essence examination, if the examiner considers that it is necessary to make amendments and changes related to the requirements specified in Articles 17, 18, 19, 20, and 23 of this law as well as other appropriate amendments and changes to the patent application, the notification on them shall be delivered to the applicant.

25.7. During the essence examination, the report of the international preliminary examination organization may be accepted.

25.8. If the solution of proposed invention does not meet the requirements specified in Articles 5, 6, and 7 of this Law, the grant of a patent shall be refused, and the report of the essence examination shall be delivered to the applicant.

25.9. If the applicant does not agree with the report specified in Article 25.8 of this law, a response with reasonable grounds shall be submitted to Intellectual property organization within one month from the date of the receipt the report.

25.10. Applicant may file a request for the extension of the period

specified in Article 25.9 of this Law up to 3 months' period. In this case, service fee shall be paid.

25.11. Within one month after receiving the response specified in Article 25.9 of this Law, the Intellectual Property Organization shall re- review the patent application for invention and, if it deems it necessary to make appropriate amendments and changes, then a notice on it shall be delivered to the applicant.

25.12. Applicant shall make appropriate amendments and changes within one month from the date of receipt of the notices specified in Articles 25.6 and 25.11 of this Law, and the applicant may request for the extension of this period by up to three months.

25.13. If appropriate amendments and changes are not made within the period specified in Article 25.12 of this Law, the Intellectual Property Organization shall make a final conclusion, and deliver the conclusion together with relevant decision to the applicant.

25.14. Intellectual Property Organization shall approve a regulation for examination of the essence of patent applications for inventions and utility model.

Article 26. Examination of essence of a patent application for utility model and its publication

26.1. Intellectual Property Organization shall make an essence examination on the utility model patent application within three months from the date of finalization of the search report.

26.2. In order to determine whether the solution of the proposed utility model meets the requirements specified in Articles 8, 9 and 10 of this Law, Intellectual Property Organization shall examine the essence, then the report together with the examiner's opinion shall be delivered to the applicant.

26.3. If the solution of proposed utility model meets the requirements specified in Articles 8, 9 and 10 of this Law, within 30 days from the delivery of the essence examination report to the applicant, the Intellectual Property Organization shall publish the utility model's bibliography, description, abstract, and claim together with the essence examination report in the official

periodical.

26.4. During the essence examination, if the examiner considers that it is necessary to make appropriate amendments and changes to the patent application, the notification on it shall be delivered to the applicant.

26.5. Applicant shall make appropriate amendments and changed to the patent application within one month after receiving the notice specified in Article 26.4 of this Law.

26.6. Within one month after receiving the appropriate amendments and changes specified in Article 26.5 of this Law, the examiner shall make an examiner's opinion on whether to grant a patent for the utility model patent application, and notify to the applicant.

26.7. If no response is received within the period specified in Article 26.5 of this Law, the examiner shall make an examiner final opinion on whether to grant a patent for the utility model application, and deliver the opinion together with the decision to the applicant.

CHAPTER IV PROTECTION OF INDUSTRIAL DESIGN

Article 27. Protection of industrial design

27.1. Intellectual Property Organization shall protect industrial design through patents granted in accordance with this Law.

Article 28. Industrial design patent subject matter and patentability

28.1. An industrial design shall be protected by a patent if it contains a new and exclusive feature.

28.2. An industrial design solution shall be regarded to be "new" if its features were not publicly disclosed in Mongolia and in a foreign country before filing date or the priority date.

28.3. An industrial design solution features causing external aesthetic shall be regarded to be "exclusive" if its features possess creative characteristics.

28.4. Even though, the disclosure of industrial design or information related to it has been made publicly by the inventor or applicant self or the person who directly or indirectly obtained the information without the consent of the applicant, and if the person authorized to file the application filed a patent application for the industrial design to the Intellectual Property Organization within six months from that date of the public disclosure , then this shall not be a condition for denying the criteria of being new, and the applicant shall be responsible for proving it.

Article 29. Subject matter shall not be deemed as industrial design

29.1. Mongolian national emblem, flag, banner, seal, award, medal, decoration and national emblem, flag and symbols of foreign country and official symbol of the State organization of Mongolia, special symbols and guarantees, control symbols, and currency symbols or designs similar to them, are not considered as industrial designs.

Article 30. Subject matter not patentable for industrial design

30.1. The following subject matter shall not be patentable for industrial design:

30.1.1. if industrial design solution is related to technical or basic purpose of the product;

30.1.2. if industrial designs that are consists of the registered trademark;
30.1.3. if industrial design that to infringe a copyright;
30.1.4. if it is contrary to public order and morality.

Article 31. Obtaining a patent right for industrial design and mentioning the inventor's name

31.1. Inventor of the industrial design or natural person and legal entities transferred the rights from the inventor shall be entitled to obtain industrial design patent.
31.1.2. Articles 11, 12 and 13 of this Law shall be a subject for obtaining patents for industrial design as same.

Article 32. Making a patent application for industrial design

32.1. Person specified in Article 31.1 of this Law shall file an application for patent of industrial design in a written or electronic form to the Intellectual Property Organization.

32.2. When the applicant filing an application for patent of industrial design, he/she may be represented by intellectual property agent.

32.3. A citizen of Mongolia without permanent residence or stateless person, a foreigner, or foreign legal entity shall file patent applications for industrial design through representation by intellectual property agent.

Article 33. Application for patent for industrial design

33.1. The Application for patent for industrial design shall contain the followings:
33.1.1. request made in the form approved by the Intellectual Property Organization;
33.1.2. a drawing of the industrial design;
33.1.3. a description of industrial design;
33.1.4. inventor's guarantee issued in accordance with the form approved by Intellectual Property Organization;
33.1.5. evidence of the right to obtain a patent, where an application filed by a person other than inventor;
33.1.6. power of attorney if the applicant represented by the Intellectual property agent;
33.1.7. Evidence for priority rights, if it is requested;

33.1.8. bills paid for service fee;
33.1.9. a list and page number of enclosed documents.

33.2. The following shall be contained in the request specified in Article 33.1.1 of this Law:
33.2.1. request for obtaining patent on industrial design;
33.2.2. general name describing industrial design;
33.2.3. International classification of industrial design;
33.2.4. number of industrial designs;
33.2.5. Surname, given name, permanent address, citizenship, and name of country of permanent residence, and signature, if the applicant is an individual;
33.2.6. Proper name, type of proprietorship, official address, country of establishment, country of operational activities, signature of competent officials, seal and stamp if the applicant is a legal entity;
33.2.7. Surname, given name, address, citizenship, name of country of permanent residence of inventor;
33.2.8. Surname, given name, license number, address and signature of an intellectual property agent , if the applicant is represented by the intellectual property agent;
33.2.9. Notice in case of request for priority rights have been made.

33.3. Applications for patent of industrial design shall be filed in Mongolian language.

33.4. Applicant shall submit the documents specified in Articles 33.1.4, 33.1.5, and 33.1.6 of this Law at the time of filing an industrial design patent application, or within two months from the date of filing the patent application.

33.5. Applicant may request an extension of the period specified in Article 33.4 of this Law for up to one month, in which case the service fee shall be paid.

33.6. If the inventor's guarantee, evidence, and power of attorney specified in Articles 33.1.4, 33.1.5, and 33.1.6 of this Law are not submitted to the Intellectual Property Organization within the period specified in Articles 33.4 and 33.5 of this law, it shall be considered that the patent application has been rejected, the Intellectual Property Organization shall dismiss the patent

application and notify the applicant of this in written or electronic form.

33.7. The name of the industrial design must be brief and clear, so that it meets of the international classification of industrial design, and must not be abstract or symbolic.

33.8. Descriptions for industrial design shall describe new and unique/exclusive features for the appearance, design, shape, color, structure and pattern decoration of the industrial design.

33.9. The image of the industrial design fully contains the new and unique features of the industrial design.

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

33.11. Intellectual Property Organization shall approve requirement for industrial design application, procedure related to registration of patent application, keeping state records and making amendment to them.

Article 34. Priority date for industrial design

34.1. An applicant may request the right of priority date in accordance with Article 4 of Paris Convention, based on patent application related one or more previous patent applications, which filed priority right granted by the Paris Convention or member country of or World trade organization.

34.2. The priority right granted period specified in Article 34.1 of this Law shall be valid for 6 months, and it shall be calculated in accordance with Paris Convention.

34.3. Applicant may request for the priority right for the exhibition within 6 months from the date of public display if the applicant displayed his/her industrial designs in official or officially authorized international exhibitions that are organized in the territory of the World Trade Organization's or Paris Convention's member countries.

34.4. When the applicant requested for priority rights specified in Articles 34.2 and 34.3 of this Law, the relevant evidence shall be attached into the patent application.

34.5. Articles 21.7 and 21.8 of this Law shall also be a subject to this Article as same.

Article 35. Receipt of patent application for industrial design, setting the filing date

35.1. Intellectual Property Organization shall deliver the applicant or authorized representative in a written notice about the receipt of the application for patent of industrial design within three working days from the date of receipt of the industrial design patent application.

35.2. Intellectual Property Organization within 10 working days from the date of receipt of patent application shall review whether the filed industrial design patent application complies with the requirements stipulated in Articles 33, and 34 of this Law.

35.3. When Intellectual Property Organization determined the filed industrial design patent application satisfied with the formality requirements, specified in Articles 33 and 34 of this Law, it shall set the filing date on the date of receipt of patent application and the applicant shall be informed in a written notice about the registration of the application into the state register.

35.4. If the Intellectual Property Organization considers that industrial design patent application does not meet the requirement specified in Articles 33 and 34 of this Law, it shall deliver the written notice to the applicant for amendments which shall be made within 1 month period.

35.5. Applicant may request for an extension of the period specified in Article 35.4 of this Law for up to one month, in which case the service fee shall be paid.

35.6. If the applicant fails to file amendments within the period specified in Articles 35.4 and 35.5 of this Law, the Intellectual Property Organization shall consider the applicant to have refused from the patent application, and deliver a written notice to the

applicant that the patent application has been dismissed.

35.7. Intellectual Property Organization shall deliver the notice specified in Articles 35.1, 35.3, 35.4, and 35.6 of this Law to the applicant in written or electronic form.

Article 36. Divide, unite, amend and refuse from patent application on industrial design

36.1. After the filing date, the industrial design patent applicant shall have the right, at any time during the essence examination, to request the following by paying a service fee:
36.1.1. file a request of the industrial design patent application to divide into two or more industrial design patent applications.
36.1.2. to unite the several patent applications on industrial design which are to be exploited together;
36.1.3. to make amendment on patent application.

36.2. Each divided patent application in accordance with Article 36.1.1 of this Law is entitled to receive the filing and priority date of the original patent application. A service fee is payable for each divided patent application.

36.3. An applicant has the right to refuse or dismiss the industrial design patent application at any time during the essence examination after the filing date.

Article 37. Essence examination of a patent application for industrial design and its publication

37.1. In order to determine whether the industrial design patent application complies with the requirements specified in Articles 28, 29, and 30 of this Law, the Intellectual Property Organization shall conduct essence examination on the industrial design patent application within nine months from the filing date, and deliver the report to the applicant together with the examiner's opinion.

37.2. If the industrial design patent application meets the requirements specified in Articles 28, 29, and 30 of this Law, the Intellectual Property Organization shall publish the industrial design's bibliography, description, and drawings in official periodicals within 30 days from the date of delivery of the report together with the examiner's opinion to the applicant.

37.3. If the industrial design patent application does not meet the requirements specified in Articles 28, 29, and 30 of this Law, the Intellectual Property Organization shall make a conclusion about it, and based on that, make a preliminary decision to refuse to grant an industrial design patent, and deliver it to the applicant together with the examination report.

37.4. If the applicant disagrees with the decision specified in Article 37.3 of this Law, applicant shall submit a reasonable response to the Intellectual Property Organization within one month after receiving it.

37.5. Intellectual Property Organization shall make a final decision on whether or not to grant a patent for the industrial design within one month after receiving the response specified in Article 37.4 of this Law, and deliver the decision to the applicant.

37.6. If the applicant does not submit the response specified in Article 37.4 of this Law within the appropriate period, the Intellectual Property organization shall make a final decision to refuse to grant a patent for the industrial design and notify it to the applicant.

37.7. Intellectual Property Organization shall approve a regulation for examining the essence of patent applications for industrial design.

37.8. Industrial design published in official periodicals are granted provisional protection until the grant of a patent, during this period it is prohibited to use the industrial design in any form without the permission of the applicant.

CHAPTER V GRANT OF PATENT, TERM OF PATENT AND PATENT FEES

Article 38. Interested person opposition

38.1. In accordance with Articles 25.5 and 37.2 of this Law, within three months from the date of publication of the invention and industrial design, an interested person may submit an opposition to the Intellectual Property Organization on the following grounds:
38.1.1. the invention does not meet the requirements specified in Articles 5, 6, and 7 of this Law;
38.1.2. the industrial design does not meet the requirements specified in Articles 28, 29, and 30 of this Law.

38.2. If an opposition filed within the period specified in Article 38.1 of this Law, the Intellectual Property Organization shall, within one month from the date of receipt of the opposition, re-examine the essence with a consist of three examiners, without the participation of the first examiner, and make a conclusion and deliver it to the interested person and the applicant.

38.3. If the interested person or the applicant disagrees with the conclusion specified in Article 38.2 of this Law, he/she has a right to file a complaint to the Dispute Resolution Council within 30 days from the date of receipt of the decision.

38.4. If an interested person filed a complaint to the Dispute Resolution Council within the period specified in Article 38.3, the decision on whether to grant a patent shall be postponed by the Intellectual Property Organization until the complaint is resolved.

Article 39. Granting patents for inventions, utility model and industrial design

39.1. In accordance with Articles 25.5 and 37.2 of this Law, the Intellectual Property Organization shall grant a patent for the invention and industrial design if the interested person does not submit an opposition within three months from the date of publication of the invention and industrial design.

39.2. Patents for utility model shall be granted on basis of the essence examination showing that subject of the utility model meet the requirements specified in Articles 8, 9 and 10 of this Law.

39.3. Intellectual Property Organization may grant written or electronic form of patents for inventions, utility model, and industrial designs.

39.4. Patent design shall be approved by the Cabinet Member in charge of Intellectual Property matters.

Article 40. Validity terms of patents for inventions, utility model, and industrial designs

40.1. The term of a patent's validity shall be determined as follows:

40.1.1. For invention 20 years from the filing date; 40.1.2. for utility model 10 years from the filing date; 40.1.3 for industrial designs 15 years from the filing date.

Article 41. Patent fees for inventions and industrial design

41.1. Fees for the patent's validity term for inventions and industrial design shall be paid in accordance with Law on State Stamp Duty.

41.2. Fees for the first five years of patent's validity term shall be paid within 6 months from the date of the resolution to grant the patent and the payments for the next years shall be paid before the expiry of the validity term of the patent.

41.3. In case of a failure to pay the patent fee within the term established in the Article 41.2 of this Law, and if a request is not submitting in accordance with Article 41.4 of this Law, the patent holder shall be deemed to have waived this patent rights, and the Intellectual Property Organization shall invalidate the patent, and this shall be published in the official periodical.

41.4. After the expiration of the grace period specified in Article 41.3 of this Law, at the request of the patent holder, the period for paying the fee for the period of validity of the patent may be recovered for 12 months. In which case, an appropriate service fee will be charged.

41.5. If a person who does not have the right to be exploited a patent uses the patent within the period specified in Article 41.3 of this Law, it shall be considered a violation of the rights of the

patent holder. According to Article 41.4 of this Law, if a person who does not have the right to be exploited a patent starts using the patent during the period until the patent validity period is recovered and the appropriate fee is paid, it shall be considered fair use and shall not be considered a violation of patent rights.

41.6. If the patent holder refuses to hold the patent or pay the patent fee, shall not have the right to apply for recover of the period of payment of fees for the period of patent validity specified in Article 41.4 of this Law.

41.7. If the fee for the period of validity of the patent is not paid within the period specified in Article 41.4 of this Law, the patent holder shall be deemed to have waived the right to the patent, and the patent shall be invalidated, and this shall be published in the official periodical.

CHAPTER VI INTERNATIONAL PATENT APPLICATIONS

Article 42. Intellectual Property Organization as Receiving Office in accordance with Patent cooperation Treaty

42.1. Intellectual Property Organization shall be the receiving organization, which receives international patent applications filed from the citizens of Mongolia or a foreign citizen and a stateless person permanently residing in Mongolia under the Patent Cooperation Treaty.

42.2. International patent applications to be filed to the Intellectual Property Organization shall be made in language specified in the Patent Cooperation Treaty, and the applicant shall pay the fee for transmission of international patent application into International Bureau of the World Intellectual Property Organization.

Article 43. Intellectual Property Organization as the name stated organization in accordance with Patent cooperation treaty

43.1. If a name of Mongolia stated in the international patent application for inventions and utility models for the purpose of obtaining a patent in Mongolia, the Intellectual Property Organization shall be the name stated organization.

43.2. The international patent application referred to in Article 43.1 of this Law shall be treated in the same way as the patent application filed under this Law, and the filing date shall be set by the international filing date set in accordance with the Patent Cooperation Treaty.

43.3. The filing date specified in Article 43.2 of this Law shall be used only for the purpose of setting previous technical level and calculating the validity period of the patent.

Article 44. Filing, receiving and resolving international patent applications at the national phase

44.1. If the applicant stated the name of Mongolia, it shall file an international patent application to the Intellectual Property Organization within 31 months from the priority date.

44.2. If the international patent application is not filed to the

Intellectual Property Organization within the period specified in Article 44.1 of this Law, it shall be considered that the international patent application has not been filed at the national phase.

44.3. If the applicant does not file an international patent application within the period specified in Article 44.1 of this Law due to valid excuse, it may file a request to the Intellectual Property Organization to recovering the right to file at the national phase.

44.4. Priority rights may be recovered at the applicant's request if the priority right is requested in an international patent application and the filing date of the international patent application is within two months from the expiration date of the priority right.

44.5. Intellectual Property Organization shall resolve the requests specified in Articles 44.3 and 44.4 of this Law in accordance with the procedures specified in Article 16.9 of this Law.

44.6. Articles 15, 16, 17, 18, 19, 20, and 21 of this Law shall be followed when filing an international patent application at the national phase.

44.7. When receiving and resolving international patent applications, the Intellectual Property Organization shall follow the Patent Cooperation Treaty and the rules, regulations and instructions issued thereunder, this law and the procedures specified in Article 16.9 of this Law.

Article 45. International applications of industrial design in accordance with Hague Convention

45.1. An application for international registration of an industrial design which stated the name of Mongolia, shall be considered through same procedure of industrial design application filed under this law, and the filing date shall be set by the date of filing with the International Bureau of the World Intellectual Property Organization.

45.2. Intellectual Property Organization shall make an essence

examination on whether the application for international registration of an industrial design which stated the name of Mongolia meets the requirements specified in Articles 28, 29, and 30 of this Law.

45.3. If the requirements specified in Articles 28, 29, and 30 of this Law are not met , the Intellectual Property Organization shall deliver a notice of refusal to register the industrial design to the International Bureau of the World Intellectual Property Organization.

45.4. When receiving and resolving international registration applications of industrial designs, the Intellectual Property Organization shall follow with the Hague Treaty and the rules, regulations and instructions issued thereunder, this law and the procedures specified in Article 37.7 of this Law.

CHAPTER VII PROTECTING RIGHTS OF PATENT AND PATENT HOLDER

Article 46. Inventor and patent holder's rights

46.1. Inventor shall enjoy the following rights:
46.1.1. to file a patent application or to hold a patent;
46.1.2. to assign or to inherit patent application rights to others;
46.1.3. to receive royalty from the exploitation of patented invention, utility models, and industrial designs;

46.2. Patent holder shall enjoy the following rights:
46.2.1. to exploit the patented invention, utility models, and industrial designs to others through license agreement;
46.2.2. to assign or to inherit patent rights to others;
46.2.3. to be protected from the unauthorized exploitation of others of the patented invention, utility models, and industrial designs;
46.2.4. to file a claim to the court in order to be protected his/her breached rights.
46.3. Unless otherwise stated in the agreement, co-inventors shall enjoy equal rights and responsibilities in the relations related to the invention, utility models, and industrial designs; therefore, they will jointly enjoy the right to file a patent application, obtain a patent, exploitation, sales, assign, and valuation of their creature to others.

Article 47. Patented rights

47.1. The scope of patent right protection is determined in the claim for invention, utility model, and for industrial designs shall be determined in description.

47.2. Patented invention, utility models, and industrial designs must not be used by others in the territory of Mongolia without prior authorizations of patent holders.

47.3. The following actions shall be considered as an exploitation of patented invention, utility models, and industrial designs:
47.3.1. to produce, distribute into the market, to import, to make sale proposal, to sell, to exploit patented products or other products made through patented methods, or to reserve them for above purposes;
47.3.2. to exploit the patented methods.

Article 48. Acts not constituting infringement of patent right

48.1. The use of patented inventions, utility models, and industrial designs in the followings shall not be deemed as infringements of the exclusive rights of the patent holder:

48.1.1. the use the product or promoted for sale, and sell product after introduction of it into the Mongolian market by patent holder or by any other authorized person by patent holder;

48.1.2. the use for the scientific research, training and experiential purposes;

48.1.3. the use on vehicles of other countries which temporarily enter in the territory of Mongolia;

48.1.4. the use for personal use non-profit purposes;

48.1.5. the use of prior to the filing date of application, that filed solution were used sincerely in Mongolia or it had been prepared for production competent.

48.2. A person specified in Article 48.1.5 of this Law shall be entitled to use the patented inventions, utility models, and industrial design in production purposes; however, the person shall not be entitled to assign the patented inventions and utility models and industrial design to any third parties.

Article 49. Invalidation of patent

49.1. A person, whose legal interests have been infringed may file a request for invalidation of a patent to the Dispute resolution council specified in Article 11.3 of the Law on Intellectual Property in the following circumstances:

49.1.1. the patent has been granted to person, who is not entitled to such rights;

49.1.2. the false information has been given or counterfeited documents has been used in the application for the patent;

49.1.3. the patents have been granted to inventions, utility models, and industrial designs that did not meet the patent application requirements;

49.1.4. the patent has been granted to inventions, utility models, and industrial designs do not meet the patent requirements;

49.1.5. the patents have been granted for things that are not patentable.

49.2. When the patent is invalidated specified in Article 49.1 of

this Law, Intellectual Property Organization shall make the relevant changes in the State registry and publish it in official periodicals.

49.3. In case of disagreement with decision specified in Article 49.2 of this Law, the relevant person may submit a complaint to the court within 30 days from the date of receipt of the decision.

Article 50. Amendments in the state register of patents

50.1. By the request of applicant or patent holders, the following amendments shall be made into the state register:

50.1.1. the changes in the name and address of the applicant or patent holder;

50.1.2. the assignment of the patent right.

50.2. An applicant or patent holder shall make a request for the amendments and changes into the state register within 6 months from the date of any changes in the name and address of the patent holder's assign of the rights. In which case, service fee and tax related to the sell and assign of patent rights shall be paid, respectively.

50.3. If the Intellectual Property Organization makes changes into the state register of patents, it shall be officially announced in the official periodicals.

50.4. The Intellectual Property Organization shall exchange information regarding the registration of intellectual property rights and the change of the right holder specified in this law with the tax authority.

Article 51. License agreement

51.1. License agreement shall have the following types:

51.1.1. an exclusive license agreement entered into by the patent owner under the condition that the patent is not simultaneously used by third parties;

51.1.2. a simple license agreement concluded by the patent holder under conditions that do not limit the simultaneous use of the patent by third parties.

51.2. A license agreement on the exploitation of the patented inventions, utility models, industrial designs shall be made in

writing and shall become effective upon registration with the Intellectual Property Organization. Intellectual Property Organization shall decide whether to register the license agreement within 10 working days from the date of receipt of request for registration.

51.3. State stamp duty shall be paid for the registration of the license agreement.

51.4. The license agreement may set the following limits:
51.4.1. limitations on scope of the agreement, territory and duration of the exploitation;
51.4.2. the factors influencing the quality of the products and service;
51.4.3. the responsibilities of licensee, that do not show negative influences on patent holder's reputation or the patent rights.

51.5. Limitations other than those specified in Article 51.4 of this Law shall not be applied to the license agreement and if the license agreement contains conditions with characteristics to limit obviously fair competition and trade, and legitimate interest of the parties , then Intellectual property organization shall refuse to register it.

51.6. If the patent became invalid after the registration of the license agreement, the registered license agreement shall also become invalid.

51.7. Information about the registration of the license agreement will be published in official periodicals.

Article 52. Compulsory license
52.1. Intellectual Property Organization may decide upon request of an interested person in the following cases, to exploit the patent under a compulsory license for a certain period of term, subject to payment of appropriate fees to the patent holder:
52.1.1. if it is necessary for the unavoidable social needs such as national security and defense, human and animal health, food supply;
52.1.2. if the patent holder has not been exploited the patent within five years from the date of grant of the patent.

52.2. Intellectual Property Organization shall consider the following when making the decision specified in Article 52.1 of this law.
52.2.1. whether the interested person has given to the patent holder sufficient time to make a decision;
52.2.2. whether reasonable payment was offered;
52.2.3. whether the patent holder's refusal is justified.

52.3. The compulsory license is subject to the following conditions:
52.3.1. the patent holder shall not restrict the limitation exploits of the patent by third parties at the same time;
52.3.2. the compulsory licensee shall not have the right to transfer and exploit the license to others;
52.3.3. the scope of exploitation of the license is limited to the market of Mongolia;
52.3.4. If the conditions specified in Article 52.1.1 of this Law are removed, the licensor has the right to forcefully invalidate the license.

CHAPTER VIII STATE INTELLECTUAL PROPERTY INSPECTORS AND DISPUTE RESOLUTION COUNCIL

Article 53. Rights and obligations of the state intellectual property inspector

53.1. The state intellectual property senior inspector and the state inspector shall brief his/her duty as the head inspector, and shall have the following rights and obligations in the field of monitoring the implementation of patent legislation:

53.1.1. unimpeded access to the object of inspection in accordance with the procedures specified in the law;

53.1.2. to receive information, research, explanation, description, and other documents that necessary for inspection work, and free of charge from relevant legal entities, organizations, and officials;

53.1.3. during the inspection, to intercept infringement of patent legislation and rules and regulations issued in accordance with it, to confiscate documents and objects that are in contradictory, solve them in accordance with the procedures specified in law, and make demands on relevant citizens, legal entities, organizations, and officials to eliminate the infringement, to ensure fulfillment by assigning terminable tasks;

53.1.4. make a decision to prohibit to trade and sell of the contradictory product, to destroy it or to use it for another purposes if it does not contradict the relevant requirements, and to announce it to the public;

53.1.5. take full responsibility for the accuracy and validity of their own inspection conducted, infringement discovered, official demands issued, introductions and result issued, fines imposed;

53.1.6. not to disclose state, official, organizational, and personal secrets discovered during the performance of his/her official duties;

53.1.7. impose punishments specified in the Law on Infringement.

Article 54. Dispute resolution council

54.1. Dispute Resolution Council shall resolve the following complaints and requests filed by applicants in regards with patent rights:

54.1.1. Complaints of the applicant issued about the examination of the application completeness specified in Articles 22.8 and 35.2 of this Law, or the essence examination of inventions, utility models, and industrial designs specified in Articles 25.4, 26.2, and 37.1 of

this Law;
54.1.2. the request of an interested person to terminate the patent right on the grounds specified in Article 49 of this Law;
54.1.3. other complaints specified in law.

54.2. The complainant shall file a complaint referred in Article 54.1.1 of this law to the Dispute resolution council within 30 days from the date of receipt of the report of the examination of the application's completeness or essence examination report together with examiner's opinion.

54.3. The request specified in Article 54.1.2 of this Law shall be filed to the Dispute resolution council within one-year period from the date of publication of the invention, utility models and industrial design in official periodicals.

54.4. Dispute resolution council shall review and resolve requests and complaints specified in Article 54.1 of this Law within three months from the date of receipt of them, and shall notify a decision in a written form.

CHAPTER IX MISCELLANEOUS

Article 55. Liability for violators of the law

55.1. Individuals and legal entities, who violated this Law shall be a subject to liabilities specified in Criminal Code and Law on Infringement/Violation.

55.2. When actions of officials that violated this Law do not bear criminal sanctions, it shall be a subject to liabilities stated in the Law on Civil Service.

Article 56. Retroactive effect of the law

56.1. This law shall not have retroactive effect.