

Patents Law (Consolidation 1992)

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LAW No. 1733/1987 (FEK 171, A' of 22/9/1987) “**Technology transfer, inventions, and technological innovation**”

as amended by Art. 18, of Law No. 1739/1987 (FEK 201, A' of 20/11/1987)

PART ONE. INDUSTRIAL PROPERTY ORGANISATION (O.B.I.) ➡

Article 1.

Foundation — Aim

1. A legal entity under private law¹ shall be founded under the name “Industrial Property Organisation” (O.B.I.), with seat at Athens, and under the tutelage of the Ministry of Industry, Energy, and Technology.

2. The aim of O.B.I. is to contribute to the technological and industrial development of the country through the practice of the following competencies:

a. Grant of patents, patents of modification and utility model certificates, as well as rendering opinions for the conclusion of non-contractual licenses within the meaning of article 13;

b. Registration of contracts concerning technology transfer;

c. Cooperation with similar organisations in other countries, international organisations, research and technological centers of the country as well as connection with organisations and data banks;

d. Preparation of monitoring of the implementation of international conventions on matters related to patents and technology transfer;

e. Representation of Greece at international organisations by decision of the competent Ministers, as the case may be.

f. Rendering of consultation and information on new technologies and know-how, under reserve of the dispositions of this law with regard to the confidential registers, records, and rolls;

g. Monitoring and follow-up of the use of inventions and technical innovations, and of the transferring technology in Greece and abroad;

h. classification of inventions and of contracts on technology transfer by category of use taking into account the internationally established criteria.

Article 2.

Administrative Council

Structure — Function — Competencies

1. O.B.I. shall be directed by a seven-member Administrative Council composed of:

a. Two representatives of the Ministry of Industry, Energy, and Technology;

b. Three persons from the scientific staff of O.B.I. with directorial status and with special knowledge and experiences on matters related to inventions and technology transfer; one jurist specialized in O.B.I. matters, who shall be appointed by the Minister of Industry, Energy, and Technology and one technical scientist to be proposed by the Technical Chamber of Greece, with knowledge and experiences on O.B.I. matters. For the first Administrative Council of O.B.I., to be appointed by decision of the Minister of Industry, Energy, and Technology, three employers from the General Secretariat of Energy and Technology shall be selected to fill the post of the three individuals from the scientific staff of O.B.I. The term of office of the First Administrative Council shall expire on 31 December 1988.

2. When the agenda of a meeting of the Administrative Council includes items regarding the staff of O.B.I., a representative of O.B.I.'s employees, elected and recalled from the totality of the working force, shall participate with a vote in the meeting of the Administrative Council. In case the said representative is not elected, the Administrative Council shall legally meet even without the participation of said representative.

3. The Administrative Council of O.B.I. and the Director General shall be appointed by decision of the Minister of Industry, Energy, and Technology for a four-year term of office. The Chairman and the Vice-Chairman of the Administrative Council shall be appointed by the same decision. The Chairman of the Administrative Council may be assigned with the duties of the Director General of O.B.I. The term of office of the members of the Administrative Council and of the Director General of O.B.I. may be renewed.²

4. The competencies of the Secretary of the Administrative Council shall be practiced by an employee of O.B.I. to be appointed along with his deputy by decision of the Chairman of the Administrative Council.

5. The compensation per session of the Chairman, the Director General of O.B.I., the Vice-Chairman, the members and the Secretary of the Administrative Council is to be determined by joint decision of the Minister of Industry, Energy, and Technology and the Minister of Finance. The number of meetings may not exceed a total of four per month.

6. The Administrative Council shall meet upon summons by its Chairman, regularly twice per month and extraordinarily if so requested by the Chairman or the majority of the members of the Administrative Council. In the latter case the Chairman shall obligatorily convene the members of the Administrative Council within five days from the date of the written notification of the request of the majority. This notification shall also state the items on the agenda.

7. The Administrative Council shall be in quorum when at least four (4) of its members are present. The decisions of the Administrative Council shall be made by absolute majority of its attending members and in case of equality of votes the vote of the Chairman shall prevail.

8. The duties of reporter shall be fulfilled by the Director General of O.B.I. or the Deputy Director General and occasionally the directors as well as members of the Administrative Council also assigned with special tasks, if the Chairman of the Administrative Council has been also assigned to the duties of the Director General.³

9. The minutes of the Administrative Council shall be signed by the Chairman, the members of the Secretary.

10. The Administrative Council shall decide on every subject related to the practice of the competencies, the administration and the staff of O.B.I.: More specifically, it shall:

a. Set up the regulation of organisational structure of O.B.I., the regulation regarding the status of the staff of O.B.I., the financial status of O.B.I., and the rules of procedure of the Administrative Council of O.B.I., and shall submit them for approbation to the Minister of Industry, Energy, and Technology;

b. Decide with regard to the means for attaining its goals and elaborate its long-term and short-term plans of action, which it shall submit for approbation to the Minister of Industry, Energy, and Technology;

c. Decide on the annual budget and its necessary amendments and shall submit it for approval to the Minister of Industry, Energy, and Technology;

d. Decide on the recruitment of staff, on their emoluments and their indemnities, the emoluments of the Director General included, and on every matter concerning their professional status in office;

e. Establish regional services and branch offices in Greece and abroad;

f. Compile the annual balance sheet and annual financial report of O.B.I., the relevant disposition on Limited Companies applied thereto;

- g. Determine the fees and revenues of O.B.I. arising from the rendering of services;
- h. Entrust organisation and other natural persons or legal entities with studies, investigations, and works related to the realisation of the goals of O.B.I. and determine the remuneration to be paid.
11. The Administrative Council may, by decision, assign part of its competencies to the Director General of O.B.I., to the Deputy Director General or to other senior employees of O.B.I.
12. The Chairman of the Administrative Council shall determine the items on the agenda under reserve of art. 2 par. 6, summons the members of the Administrative Council to meetings, and follow up the implementation of the decisions of the Administrative Council. In case of absence of the Chairman or his inability to attend the Vice-Chairman shall preside the meeting of the Administrative Council.
13. The Director General of O.B.I.4 shall have the following competencies:
- a. He shall be responsible for the implementation of the decisions made by the Administrative Council;
- b. He shall head the units of O.B.I. and provide for their normal and effective function;
- c. He shall extrajudicially or judicially represent O.B.I. and be entitled to entrust, by act, according to the case or category of case, the representation to the Deputy Director General or to a member of the Administrative Council, to a lawyer of O.B.I. or, for specific matters, to an employee of O.B.I.
- d. By his act and in compliance with the disposition of the law, he shall grant patents, patents of modification and utility model certificates, issue opinions in accordance with article 13 regarding grant of non-contractual licenses, as well as any other certificate, affirmation or document for supply of information defined by the present law.

Article 3.

Resources — Management — Supervision

1. O.B.I. shall have the following regular and extraordinary resources;
- a. Fees and income arising from rendering of services;
- b. Special financing from the budget of the Public Investments Programme;
- c. Special financing from subsidies, donations, inheritance, legacy, and contributions of any kind from legal entities and natural persons.
2. Following approbation of the Minister of National Economy and of the Minister of Industry, Energy, and Technology, O.B.I. may contact loans with banks and credit organisation in Greece or abroad.

The guarantee of the Greek state may be given for the grant of the aforementioned loans.

3. The management and the annual balance sheet of O.B.I. shall be audited by Certified Accountants.

4. For the supervision of the function of O.B.I., the Administrative Council shall submit to the Minister of Industry, Energy, and Technology an annual report of its activities, a report of revenues and expenses, the budget, and the balance sheet.

Article 4.

Regulations — Rolls — Registers — Records

1. By decision of the Administrative Council of O.B.I., approved by the Minister of Industry, Energy, and Technology the following regulations shall be set up:

a. Regulation of organisational structure of O.B.I., which shall regulate its structure with regard to service units, their competencies, and their function.

The regulation of the organisational structure of O.B.I. may provide for the establishment of a committee which shall comprise specialized scientists of O.B.I. with the purpose of examining patent applications, wherever the examination of said applications requires specialised scientific knowledge.

b. Regulation and the status of the staff of O.B.I., which shall determine the posts of the staff provided by the law and the qualifications for their recruitment; it will also regulate issues pertaining to the progress of the staff with regard to grade and salary, issues pertaining to retirement from the service and in general all issues related to the service status as well as the disciplinary responsibility and disciplinary penalties.

c. Economic regulation which deals with matters of management, compiling, and publication of the budget, the balance sheet and their annual report, issues relating to the cases and the procedures for payment of fees, income or revenues, and rendering expenses as well as to matters of supplies of O.B.I.

d. Regulation of function of the Administrative Council of O.B.I., which is not subject to approbation by the Minister.

2. O.B.I. shall keep the following registers, records, and rolls:

A: Registers:

a. Confidential technology transfer register, within the meaning of article 21 of the present law;

b. Common register for patents;

c. Confidential register for patents;

d. Register for utility model certificates;

B: Records:

a. Confidential record for technology transfer, within the meaning of article 21 of the present

law;

- b. Ordinary record for patents;
- c. Confidential record for patents;
- d. Record for utility model certificates;

C: Rolls:

- a. Ordinary roll for reports;
- b. Confidential roll for reports.

3. O.B.I. shall issue the Industrial Property Bulletin and publications for briefing and spreading information relating to patents, innovations, and technology transfer.

4. The data which shall be included in the aforementioned registers, records and rolls and the mode of their redaction and presentation shall be determined by decision of the Minister of Industry, Energy, and Technology, following a proposal of the Administrative Council of O.B.I. The same decision shall determine the manner in which the Industrial Property Bulletin shall be kept and issued, as well as the data to be included therein.

5. As confidential register, record, and roll there are understood, those which exist subject to law No 4325/1963 "on inventions related to the national defence of the country". The disclosure of the confidential data kept in the confidential registers, records or rolls by the staff of O.B.I. in the course of their service and for a period of ten years following discontinuation of their service shall be punished by the penalties defined in article 8 of Law 4325/1963 "on inventions related to the national defence of the country".

PART TWO. PATENTS ➔

CHAPTER A. GENERAL DISPOSITIONS — BENEFICIARIES ➔

Article 5.

Meaning

- 1. Patents shall be granted for any inventions which are new, which involve an inventive step, and which are susceptible of industrial application. The invention may relate to a product, a process or an industrial application.
- 2. The following shall not be regarded as inventions within the meaning of paragraph 1:
 - a. discoveries, scientific theories, and mathematical methods;
 - b. aesthetic creations;
 - c. schemes, rules, and methods for performing mental acts, playing games or doing business, and programs for computers;

d. presentation of information.

3. An invention shall be considered new if it does not form part of the state of the art. The state of the art shall be held to comprise anything made available to the public anywhere in the world by means of a written or oral description or in any other way, before the filing date of the patent application or the date of priority.

4. An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

5. An invention shall be considered as susceptible of industrial application of its subject matter may be produced or used in any sector of industrial activity.

6. The following shall not be regarded as inventions susceptible of industrial application within the meaning of paragraph 5:

a. Methods for treatment of the human or animal body by surgery or therapy;

b. Diagnostic methods practiced on the human or animal body.

7. The exceptions to paragraph 6 shall not apply to products and in particular to substances or compositions for use in any of these methods.

8. Patents shall not be granted in the following cases:

a. inventions the publication or exploitation of which would be contrary to public order ("ordre publique") or morality;

b. plant or animal varieties or biological processes for the production of plants or animals; this provision does not apply to microbiological processes or the products thereof.

9. Patents shall be granted also for an invention which has been disclosed no earlier than six months preceding the filing of the patent application, if the disclosure was due to:

a. an evident abuse of the rights of the applicant or his/her legal predecessor;

b. the fact that the invention was displayed at an officially recognised international exhibition falling within the terms of the convention on international exhibitions signed in Paris on 22 November 1928 and ratified by law 5562/32 (Official Journal, 221). In said case, when filing the application, the applicant should state that the invention has been so displayed and should file the relevant supporting certificate.

10. The disclosure of paragraph 9 does not affect the novelty of the invention provided for in paragraph 3.

Article 6

Right to a patent Invention by an Employee — Claiming

1. The right to a patent shall belong to the inventor or to the beneficiary in accordance with paragraphs 4, 5, and 6 and to his/her general or special successors in title. Whoever requests the grant of the patent shall be deemed to be the inventor.

2. If two or more persons have made an invention jointly and provided that there exists no other agreement, the right shall belong to all of them jointly. Each cobeneficiary may freely assign his share and take care of the maintenance of the joint patent.

3. If two or more persons have made the invention independently of each other, the right to the patent shall belong to the person whose patent application has the earliest date of filing or to the person who has a priority right against the others in accordance with article 9.

4. An invention made by an employee shall belong to him/her (free invention) unless the invention is either a service invention, in which case it entirely belongs to the employer, or is a dependent invention in which case it belongs by 40% to the employer and by 60% to the employee.

5. A service invention is the outcome of a contractual relation between the employee and the employer for the development of inventive activity. In case that a service invention is accomplished, the employee shall have the right to request an additional reasonable recompense if the invention is particularly profitable to the employer.

6. A dependent invention is the invention made by an employee with the use of materials, means or information of the enterprise in which he/she is employed. The employer shall be entitled to exploit the dependent invention by priority against compensation to the inventor, proportional to the economic value of the invention and the profits it brings. The inventor of the dependent invention shall without neglect notify in writing the employer on the accomplishment of the invention and shall give the necessary data for the filing of a joint patent application. If the employer does not answer in writing within four months from said notification to the employee that he is interested in jointly filing the patent application, the said application shall be filed by the employee only and in this case the invention belongs entirely to the employee.

7. Any agreement which restricts the above mentioned rights of the employee shall be considered null.

8. In all cases, the name of the inventor shall be mentioned in the patent and the inventor shall have the right vis-à-vis the applicant or the owner of the patent to demand his/her recognition as inventor.

9. The beneficiary of the invention may, if a third party has filed without his/her consent a patent application relating to his invention or to essential constituents thereof, demand by legal action against said third party the recognition of his/her rights emanating from the patent application or, in case that a patent has been granted, his/her rights emanating from the patent.

10. The aforementioned legal action shall be brought before the court within a period of two years from the date of publication of the summary of the patent in the Industrial Property Bulletin. This term does not apply if the patentee is aware of the right of the claimant at the time of grant or assignment of the patent.

11. A summary of the irrevocable decision stating the acceptance of the aforementioned action shall be recorded in the Patents Register.

The licences and all other rights which have been granted on the patent shall be considered null as from the date of said recordal. The defeated litigant and third parties, if they have exploited the invention in good faith or had proceeded with the necessary preparations for said exploitation, may request from the recognised beneficiary the grant against

compensation of a non-exclusive licence for a reasonable period of time. In case of dispute of the parties the conditions shall be determined by the one-member court of first instance in the place of residence of the applicant, in accordance with the procedure laid out in articles 741 to 781 of the Code of Civil Procedure Law.

CHAPTER B. PROCEDURE FOR GRANTING A PATENT ➔

Article 7

Filing of application — Acceptability — Publication

1. For the grant of a patent an application shall be filed with O.B.I. including:
 - a. Full name or name of legal entities, nationality, residence or seat, and address of the applicant;
 - b. Description of the invention and determination of one or more claims. O.B.I. may request completion or rewording of the description or the claims in order to comply with the dispositions of the present law. By claim shall be held in the present law the extent and the content of the requested protection;
 - c. A request for the grant of a patent.
2. The application shall be accompanied by the drawings referred to in the claims or the description, an abstract of the invention, the explanations for the proper understanding of the description, and the documents empowering the applicant to act in case of a legal entity or in case of a natural person if he/she is not the inventor. It shall be further accompanied by the receipts evidencing payment of the application fee and of the first annual renewal fee.
3. The claims of the invention shall be based on the description.
4. The description of the invention shall be so compiled as to be sufficiently carried out by a third person skilled in the art.
5. The abstract of the invention serves only for the purpose of technical information.
6. The application may relate either to a single or to multiple inventions so linked as to form a single general concept. If the application relates to several inventions (compound application) the applicant may, up to the date of grant of the patent, divide the application into more than one divisional applications, maintaining the filing date of the initial application as filing date of each divisional application.
7. Upon filing the patent application, the applicant may state that he wishes his application to be considered, in accordance with article 19, as an application for the grant of a utility model certificate if the application shall be rejected as a patent application.
8. The application shall be accented for filing provided that it meets the terms laid down in paragraph 1 and that it is accompanied by the receipts of the filing fee and the first annual renewal fee. In this case the filing of the application shall be considered as orderly filed but not complete.
9. Within a period of four months from the filing date, the applicant should submit any

missing drawings or other supporting documents, complete any lacking data, and correct any eventual errors in the draft of the documents and of other supporting documentation in accordance with paragraphs 2, 3, 4, and 5. In this case the filing of the application shall be considered complete.

10. The date of the orderly filing of the application in accordance with paragraph 8 is considered as the filing date of the application.

11. The manner of drafting and filing of the patent application and of the documents attached thereto as well as of any other detail relating to the procedure for the grant of a patent shall be determined by decision of the Minister of Industry, Energy, and Technology, following proposal of the Administrative Council of O.B.I..

12. The patent application of paragraph 1 as well as the documentation attached thereto provided for in paragraph 2 shall be made available to the public eighteen months following the filing date or the date of priority, unless the patent has already been granted in which case they are made available to the public on the date of grant of the patent.

13. As from the date on which the application is made available to the public, any third party may request information and copies of the application, of the description, of the drawings, and of any other relevant data.

14. Extracts of the application shall be published in the Industrial Property Bulletin.

Article 8.

Grant of the patent — Procedure

1. If after the lapse of the term stated in paragraph 9 of the preceding article O.B.I. discovers the orderly but not complete filing of the application, this shall be considered as not filed.

2. If the filing of the application is orderly and complete, O.B.I. shall examine:

a. whether the subject matter of the application relates to an invention which is obviously – patentable within the meaning of paragraphs 6 and 8 of article 5;

b. whether the subject matter of the application cannot be obviously considered as invention within the meaning of article 5 paragraph 2.

If either of the above cases occurs, O.B.I. shall reject the patent application in its entirety or in the part which falls under said cases.

3. If the application is not considered as non-filed or if it is not rejected, in accordance with the preceding paragraphs, O.B.I. shall draft a search, report based on the description of the invention, the claims, and the attached drawings which shall mention all data of the state of the art necessary for the assessment of the novelty and the inventive step of the invention (search report). The search report may be accompanied by comments or brief explanatory remarks made by O.B.I. which shall relate to the characteristics of the invention in accordance with article 5 par. 1.

4. The search report shall be drafted only if the applicant pays the search fee within four months from the filing date of the application. In case said fee is not paid in time, the patent

application is automatically converted into an application for grant of a utility model certificate.

5. The search report, along with a copy of the documents accompanying it, shall be notified to the applicant who is entitled to present his/her comments within a period of three months from the date of the notification.

6. On the basis of the applicant's comments, O.B.I. shall draft a final search report including all data of the state of the art which have to be taken into consideration in appraising the patentability of the invention by granting a patent in accordance with the present law.

7. The search report shall be made available to the public along with the patent application or, if it has not yet been drawn-up, following its notification to the applicant.

8. The search report or the final search report have an informative character.

9. Upon drafting the search report, O.B.I. may request from the European Patent Office or from any other international or national organisation the supply of information or opinions which shall be freely evaluated. Furthermore, O.B.I. may request from the applicant additional information, clarifications or comments.

10. All other matters related to the procedure of drafting the search report or the final search report are regulated by decision of the Minister of Industry, Energy, and, Technology.

11. O.B.I. grants a patent following completion of the procedure of the preceding paragraphs. The patent certifies the complete and orderly nature of the patent application. The patent indicates its classification and its period of life, whereas the following shall be attached thereto:

a. The original of the description of the invention together with the claims, the abstract, and drawings, if any;

b. The search report or the final search report.

12. The priority claim from an application in another country is inscribed on the patent, indicating also the country, the date, and the number of its filing abroad on which the priority is based.

13. The patent shall be recorded in the Patents Register and its summary shall be published in the Industrial Property Bulletin.

14. A copy of the patent, together with the documents attached thereto, shall be given to the applicant.

15. Any third party shall be entitled to request information or copies of the patent, the description, the drawings, or any relevant data.

Article 9.

International priority

1. If an orderly patent application or application for grant of a utility model certificate has been filed abroad, the applicant or its beneficiary shall be entitled to claim priority provided that, within twelve months from the filing date, he shall file an application in Greece for the same invention and that the condition of reciprocity applies. In this new application he must state the date and the country of the first filing. The right for priority goes back to the date of the first filing abroad.
2. As orderly filing abroad there shall be considered every patent application which is considered orderly in compliance with the law of the country where it has been filed and provided that the filing date ensues from its content. The subsequent fate of said patent application is of no concern.
3. Within sixteen months from the first orderly filing abroad, the following shall be submitted to O.B.I.:
 - a. Certificate by the competent authority from the country where the first application was filed, indicating the number and the filing date along with the description, claims, and any drawings attached thereto, certified by the foreign authority, and
 - b. Translation into Greek of the aforementioned certificate, description, claims, and drawings, by a lawyer or authority having the right to certify translations.
4. If several priorities are claimed, the terms starting from the date of priority are calculated as from the date of the earliest priority.

CHAPTER C. RIGHTS DERIVED FROM THE PATENT AND DURATION OF ITS VALIDITY ➔

Article 10.

Contents of the right

1. The patent confers upon its owner, whether natural person or legal entity, the exclusive and time-limited, in accordance with article 11, right to productively exploit the invention and particularly:
 - a. To produce, offer or make available in the market, to use and to possess for said purpose the products protected by the patent;
 - b. To apply, offer or make available in the market the process protected by the patent;
 - c. To produce, offer or make available in the market, to use and to possess for said purpose the product whose production results from the process protected by the patent;
 - d. To forbid each and every third party from productively exploiting the invention, within the meaning of the above passages, or to import, without prior consent of said owner, the products protected by the patent.
2. The owner of the patent may not forbid, in the meaning of the preceding paragraph, the following activities:
 - a. The use of the invention for nonprofessional or research purposes;

b. The use of the invention built in an automobile, railway, vessel or airplane entering the Greek territory on a temporary basis;

c. The preparation of a pharmaceutical product in a pharmacy for a specific individual, following medical prescription as well as the dispensing and use of said pharmaceutical product under the reservation of article 25 paragraph 3 of the present Law.

3. Whoever shall exploit his/her contrivance or has proceeded with the preparations required for said exploitation, at the time the application for a patent was filed by a third party or in accordance with the date of priority, shall have the right to go on using said contrivance for their enterprise and its needs. This right may be only assigned along with the enterprise.

Article 11.

Duration of the Validity of the Patent

1. The duration of the validity of the patent shall be twenty years starting the day following the date of the filing of the patent application.

2. In case of claim of priority on the basis of filing abroad, the duration of the validity of the patent shall be calculated from the day following its filing in Greece.

CHAPTER D. SUCCESSION AND LICENCES ➔

Article 12.

Assignment — Succession — Contractual Licence

1. The right on a patent application and on the patent itself may be assigned following written agreement or they may be inherited. The assignment shall be completed upon registration of the assignment agreement or of the certificate of inheritance in the Patents Register and it is published in the Industrial Property Bulletin.

2. The joint owners of a patent may assign, each one separately, following written agreement, their share of the patent. The same applies to the right in common for granting a patent.

3. The patentee may grant to a third party, following written agreement, a licence for exploitation of the patent. In case of a licence for a joint patent, the agreement of all the patentees is required.

4. Unless otherwise agreed, the licence is neither exclusive nor assignable nor inheritable.

5. The patentee may at any time state to the Industrial Property Organisation his consent to the grant of licences with or without exclusivity, against compensation. The statement shall be valid for a period of two years, shall be recorded in the Patents Register, and published in the Industrial Property Bulletin; the appropriate note shall be written on the patent.

6. In the case of paragraph 5, for the period of time only for which the statement shall be valid, the patentee shall be entitled to a deduction from the sum of the annual fees paid for protection of the patent. The deduction shall be determined in general or for specific categories of cases by decision of the Administrative Council of the Industrial Property

Organisation.

Article 13.

Non-contractual licence

1. The competent court mentioned in paragraph 10 of the present article may grant to a third party, without prior consent of the patentee, a licence for exploitation of the patent in case that the following prerequisites concur accumulatively:

a. A period of three years has elapsed since the grant of the patent or a period of four years has elapsed since the filing date of the patent application;

b. The relevant invention has not been exploited in Greece or, in case it has, the production of the products thereof is insufficient to cover local demand;

c. The third party is in a position to exploit productively the invention covered by the patent;

d. The third party notified the patentee, one month prior to the initiation of the judicial proceedings, regarding his intention to request a non-contractual licence.

2. The non-contractual licence shall not be granted in case the patentee justifies lack of exploitation or insufficient exploitation in the country. The importation of the product does not constitute an excuse for the invocation and application of this paragraph. The regulation of item 1 above shall not apply to products imported from Member States of the European Union.⁵

3. The grant of a non-contractual licence may not exclude other contractual or non-contractual licences. The non-contractual licence may be assigned only along with the part of the enterprise which exploits the invention.

4. The owner of the patent may request from the competent court mentioned in paragraph 10 the grant of a non-contractual licence on an earlier patent, provided that his invention relates to the invention of the earlier patent, the productive exploitation of said invention is not possible without offending the rights of the owners of the earlier patent and his invention constitutes a significant progress in comparison with the invention of the prior patent. When the aforementioned non-contractual licence has been granted, the owner of the earlier patent may request the granting of a non-contractual licence for the subsequent invention.

5. The non-contractual licence shall be granted following petition of the interested party before the competent court mentioned in paragraph 10. The petition is accompanied by the opinion of the Industrial Property Organisation regarding the existence of the prerequisites for granting the non-contractual licence in accordance with the preceding paragraphs, the amount, the terms of the compensation to be given to the owner of the patent, and the exclusive or non exclusive character of the exploitation of the invention. The Industrial Property Organisation states its opinion following petition of the party interested in exploiting the patent. The opinion of O.B.I. is granted within one month from the date the relevant petition is filed and is not binding for the competent court. Copy of the application for granting a non-contractual licence along with the relevant opinion of O.B.I. and the note fixing the day of the trial shall be notified to the owner of the patent and to the beneficiaries of other contractual or noncontractual licences.

6. In case the petition is approved, the competent court grants a non-contractual licence.

The licence pertains to the extent of the exploitation rights of the invention, the duration of its validity, the date of commencement of the productive exploitation of the invention in Greece and the amount and terms of compensation to be paid to the patentee by the beneficiary of the licence.

The amount and the terms of the compensation are determined in accordance with the extent of the industrial exploitation of the protected invention.

7. The decision of the court in accordance with paragraph 6 shall be recorded to the Patents Register of O.B.I., published in the Industrial Property Bulletin and notified to the persons mentioned in paragraph 5.

8. Following petition of the owner of the patent or the beneficiary of the noncontractual licence, the competent court mentioned in paragraph 10 may amend the terms of granting of the licence if new data justify the amendment or revoke the non-contractual licence if its beneficiary does not respect the terms of the licence or if the prerequisites for its granting have ceased existing. If the immediate revocation brings about a significant damage to the beneficiary of the non-contractual licence, the court may allow the continuation of the exploitation for a reasonable period of time.

9. The non-contractual licence does not grant the right for importation of the products covered by the invention.

10. The competent court for the grant, assignment, amendment or revocation of a non-contractual licence is the three-member court of first instance at the place of residence of the petitioner, which judges in accordance with the proceedings of articles 741 to 781 of the Code of Civil Procedure Law.

Article 14.

Licence to the Public Sector

1. For imperative reason of serving public health and national defence after justified decision of the Minister of Industry, Energy, and Technology and, according to the case, any competent Ministers, a licence for exploitation of an invention can be granted to bodies of the public sector which may exploit the invention in Greece, provided that the relevant invention has not been productively exploited in Greece or the production of the products thereof is insufficient to cover local needs.

2. Prior to the issue of the relevant decision, the patentee and anyone who is in position to give useful advice, are called upon to express their views.

3. By the same decision, following the opinion of O.B.I., the amount and the terms of the compensation to the owner of the patent are determined. The amount of the compensation is determined in accordance with the extent of the industrial exploitation of the invention. In case of disagreement of the patentee as regards the amount of the compensation, the compensations is determined by the relevant one-member court of first instance of the jurisdiction, in the injunction proceedings.

CHAPTER E. NULLIFICATION — FORFEITURE — PROTECTION ➔

Article 15.

Nullification

1. The patent shall be declared null by Court decision if:

a. The owner of the patent is not the inventor or his assignee or his beneficiary according to article 6, paragraphs 4, 5 and 6;

b. The invention is not patentable in accordance with article 5;

c. The description attached to the patent is insufficient for the invention to be carried out by a person skilled in the art;

d. The subject matter of the granted patent extends beyond the content of the protection, as requested in the application.

2. The persons mentioned in passage (a) paragraph 1 are entitled to bring action against the owner in the case of said passage, whereas in all other cases action may be brought before the court by whoever has legal interest. The nullification action shall be brought before the competent civil court. Patentees who are not residents of Greece bring actions or are sued in the courts of the capital.

3. If the nullification is brought before the court only against part of the invention, the patent is accordingly restricted.

Article 16.

Forfeiture

1. Whoever files a statement of waiver with O.B.I. or whoever does not pay the protection fee in due term, declines from the rights derived from the patent.

2. O.B.I. issues an act for the forfeiture published in the Industrial Property Bulletin. The forfeiture is valid as from the date of its publication.

3. In case a non-contractual licence or a right to the invention has been granted, the registration of the waiver further necessitates written consent of the beneficiary of the licence or of the right.

Article 17.

Actions before justice by the owner of the patent — False pretence

1. In case of present or threatened infringement of the patent, its owner has the right to demand the cease of the infringement and the omission from any infringement in future.

2. In case of intentional infringement of the patent, its owner who suffered damage is entitled to demand restitution of the damage or return of the benefits derived from the unfair exploitation of the invention or the payment of an amount equal to the value of the licence for said exploitation.

3. The same rights are granted to the beneficiary of an exclusive licence, to whoever has a right on the invention, and to whoever has filed a patent application. In the latter case the

court may postpone the trial procedure of the case until said patent has been granted.

4. The aforementioned rights shall be prescribed after the lapse of five years from the date the owner of the patent took knowledge either of the infringement or of the damage and of whom is obliged to give compensation, and definitely after the lapse of twenty years since the infringement took place.

5. In case of condemnation of the defendant, the court may order the destruction of the products manufactured in violation of the dispositions of the present law. The court may also, instead of the destruction, order that the products or a part thereof be rendered to the plaintiff for his total or partial compensation, upon request of the latter.

6. If the invention relates to a process for the manufacture of a product, each product of the same nature is presumed to have been manufactured according to the protected process.

7. Whoever places on products or on their wrapping, or on any kind of commercial documents destined for the public or on other relevant means of publicising and advertising, a false statement that the objects in question are protected by patent, shall be punished by up to one year imprisonment or by fine amounting to at least fifty thousand drachmas or by both penalties.

CHAPTER F. PATENT OF MODIFICATION ➔

Article 18.

Meaning — Procedure up to grant

1. If an invention constitutes modification of another invention already covered by a patent (main patent), the owner of the latter may request the grant of a new patent (patent of modification) provided that the subject-matter of the new patent relates to at least one claim of the main patent.

2. The patent of modification shall follow the fate of the main patent and expires therewith. The patent of modification may be used by all beneficiaries of licences for exploitation of the main patent, unless otherwise stated in the licences.

3. No annual renewal fees are to be paid for the patent of modification.

4. The patent of modification may be converted into a main patent, upon request of its owner. The duration of the validity of the converted patent shall be governed by article 11. As date of filing shall be regarded the filing date of the application for grant of a patent of modification.

5. The nullification of the main patent does not call for the nullification of the patent of modification. In case the main patent is annulled, the fees to be paid for the main patent shall be paid for the patent of modification.

6. As regards all other matters, the respective dispositions of the present law regarding patents shall apply.

PART THREE. TECHNICAL INNOVATIONS ➔

CHAPTER A. UTILITY MODEL CERTIFICATE ➔

Article 19.

Meaning — Procedure up to grant

1. The utility model certificate shall be granted for each novel and industrially applicable three-dimensional object with definite shape and form, such as a tool, an instrument, a device, an apparatus or even parts thereof, proposed as novel and industrially applicable and capable of giving a solution to a technical problem.
2. Whoever files a patent application may request up to the date of grant of the patent the conversion of his patent application into an application for a utility model certificate.
3. The duration of validity of the utility model certificate is seven years from the date following the date the application for the grant of a utility model certificate or for the grant of a patent has been filed in case of conversion in accordance with paragraph 2.
4. The application for the grant of a utility model certificate shall be submitted to O.B.I. The requirements for filing the application, the relevant supporting documentation, and all other pertinent details are determined by decision of the Minister of Industry, Energy, and Technology.
5. If the application for a utility model certificate complies with the requirements of paragraph 4, O.B.I. grants a utility model certificate without prior examination of the novelty and industrial applicability of the utility model at the responsibility of the applicant.
6. As regards all other matters, the respective dispositions of the present law regarding patents apply.

CHAPTER B. TECHNICAL INNOVATIONS AND AWARDS ➔

Article 20.

Technical innovation — Subsidies — Awards

1. A certificate of technical innovation may be granted for a new solution of a specific technical problem (technical innovation), proposed by one or more persons working for an enterprise and related to the activities of the latter. The certificate of technical innovation constitutes an award to working persons involved for their creative contribution to the enterprise.
2. The details of the procedure for granting certificates of technical innovation shall be determined by joint decision of the Ministers of Labor and of Industry, Energy, and Technology, published in the Official Journal of the Government.
3. The requirements for subsidising unions and associations of inventors or scientists as well as cooperatives and unions of productive units which aim at the development of research and technological installations and models, at the joint reclamation of results derived from research, or at the presentation of inventions or new products and processes in exhibitions and congresses, shall be determined by joint decision of the Ministers of Finance and of Industry, Energy, and Technology.

4. The procedure for granting state awards and/or financial support to inventors, persons employed in enterprises and whoever may contribute to the development of technology, to the popularisation and propagation of scientific and technical knowledge, as well as to the creation of technological places of display and museums, shall be governed by joint decision of the Ministers of National Economy, of Finance, and of Industry, and Energy, and Technology.

5. The research centers or institutes of the country may, following request of the party concerned, grant a leave of up to two years with salaries not exceeding fifty percent to a researcher of any degree who wishes to render industrially and commercially productive his technical contrivances and inventions provided they fall within the scope of the center or institute. Following request of the person concerned, the research center or institute may extend the aforementioned leave for a further total period of three years and with emoluments up to twenty-five percent of the regular ones. After the lapse of five years, the researcher shall choose either to resign from the center or to return to the center as a full-timer. The assessment of the petitions for granting or extending such leave shall be effected by the Administrative Council of the research center or institute and the grant of the leave or its extension shall be approved by the Minister of Industry, Energy, and Technology.

PART FOUR. TECHNOLOGY TRANSFER ➔

Article 21.

Meaning — Nullity of terms of the contract

1. By the contract on technology transfer the supplier of technology is called upon to supply technology to the recipient of technology, and the recipient is called upon to pay the value agreed upon. In particular, the following are conceived within the meaning of this article as technology supply:

- a. The licence for exploitation of patents and utility model certificates;
- b. The assignment of patents and of utility model certificates;
- c. The supplying of technical constructing instructions, drawings or services;
- d. The supplying of organisational and management services, as well as of specialised consulting services or services for follow-up and control;
- e. The disclosure of industrial secrets with drawings, diagrams, specimens, models, instructions, proportions, conditions, processes, prescriptions and methods of production of products referring to the productive exploitation. Such industrial secrets are mainly technical information, data or knowledge which relate to processes, expertise or skills, that have practical application particularly to the production of goods and the rendering of services, provided that they have not become widely known;
- f. The joint research or development of new technology, demonstrative or experimental programs or works;
- g. Providing technical assistance in the form of briefing, instruction, and formation of personnel.

2. The following terms shall be null and void:

a. Terms in patent licences that include dispositions which are contrary to those of article 3 of Regulation number 2349/1984 of the Commission of European Communities (Official Journal No. L 219/15) concerning the implementation of article 85 par. 3 of the EEC Convention, to classes of agreements relating to the licence for exploitation of patents;

b. Terms in contracts on technology transfer including ban of exportation. The Minister of Industry, Energy, and Technology may, by his decision, permit the conclusion of a contract containing a clause banning exportation, if this is imposed by serious reasons of economic development and public interest and provided that the ban is not contrary to international obligations of the country.

Article 22.

Registration of the contract on technology transfer

1. The contract on technology transfer shall be submitted to O.B.I. by the contracting parties which have their domicile or seat in Greece, within one month from its conclusion and at the same time the dispositions of law No 1360/83 (Official Journal No. 65) apply.

2. The contract shall be registered in the register of technology transfer. The registered contracts on technology transfer or the information contained in the form provided in paragraph 5 of the present article shall be kept secret. Whoever shall violate the present disposition shall be punished according to article 17 of Law No 146/1914 on Unfair Competition.

3. Contracts with the following subject shall not be subject to the obligation of being registered:

a. Isolated use of foreign engineers and technicians for installation and repair of factories or machinery;

b. Advice, drawings or similar provisions usually accompanying machinery or equipment, provided that they do not entail any special surcharge for the one whom they are destined to;

c. Urgent technical assistance or repair, provided that they are carried out by reason of an earlier registered agreement.

d. Technical training given by educational organisations or enterprises to their personnel;

e. Defense systems.

4. The party responsible for registering the contract on technology transfer may either submit a copy of the contract or complete the special form in accordance with paragraph 5. Suit or petition to the Court which concerns any difference between the contracting parties and which relates to a contract on technology transfer cannot be discussed before the court without a written confirmation of O.B.I. indicating that the parties have complied with the requirements of this paragraph.

5. The process of compiling, drafting, and granting of the special form regarding contracts on technology transfer and the relevant prerequisites to be completed for statistical use are

determined by decision of the Minister of Industry, Energy, and Technology.

6. The registration of the contract on technology transfer with O.B.I. may entail for the contracting party(-ies) submitting the agreement a deduction from the sum of the fees due to O.B.I.. The percentage of the deduction shall be determined by decision of the Administrative Council of O.B.I.

PART FIVE. IMPLEMENTATION OF THE CONVENTION ON THE GRANT OF EUROPEAN PATENTS ➔

Article 23.

European application — European patent Reasons for Nullification

1. The application for the grant of a European patent shall be obligatorily submitted to O.B.I. when the applicant is a Greek citizen unless claiming the priority of an earlier Greek application.

2. Since the date of its publication, in accordance with law 1607/1986 (Official Journal 85), article 93 of the convention concerning the European patent, the European patent application in Greece has the same effects as the Greek patent application.

3. The provisional protection of paragraph 2 is provided only starting the date on which the applicant of the application of the European patent submits to O.B.I. the relevant certified translation in Greek of the claims of the application.

4. The European patent has the same effects in Greece as the Greek patent granted by O.B.I.

5. The proprietor of the European patent shall supply O.B.I. with the relevant certified Greek translation of the text on the basis of which the European Patent Office has granted the European patent or has maintained it with modifications.

6. The European patent is not valid in Greece unless the terms of paragraph 5 are observed.

7. For as long as the reserve formulated by Greece in accordance with article 167 paragraph 2 passage (a) of the convention regarding the European patent remains in force, European patents granting protection to pharmaceutical products are ineffective in Greece.

8. A European patent may be declared null in Greece only on the grounds of law No 1607/1986 article 138 paragraphs 1 of the Convention regarding the European patent.

9. If the grounds for nullification relate to the European patent only in part, the claims, the description, and the drawings of the patent shall be limited accordingly.

10. The following shall be determined by Presidential Decree to be issued upon recommendation of the Minister of Industry, Energy, and Technology:

a. The deadline and prerequisites for submitting the translation of the application for the grant of a European patent;

- b. The deadline and prerequisites for submitting the translation of the European patent;
- c. The terms for ascertaining the authenticity of the translation, its possible revision, and the rights of third parties who, in good faith, are already exploiting the patent;
- d. The mode and the prerequisites for filing the European patent application with O.B.I.;
- e. The keeping of the register of European patents;
- f. The prerequisites for converting the European patent application into a Greek patent application;
- g. The prerequisites for representation before O.B.I. concerning matters of European patents;
- h. The regulation of cases of cumulative protection of Greek and European patents.

PART SIX. FINAL AND TRANSITIONAL PROVISIONS ➔

Article 24.

Fees

1. Fees shall be paid for the registration of contracts on technology transfer, for the furnishing of advice and information with regard to technology transfer, and for the grant, assignment or amendment of rights on patents and utility model certificates.
2. For each patent application the filing fee, the annual fees for protection, the fee for the search report and fees for the registration of modifications shall be paid in advance to O.B.I. The receipts of payment of the filing fees and for fees covering the first year of protection shall be deposited along with the patent application. The annual fees for protection shall be paid in advance for each subsequent year and the relevant receipt shall be submitted to O.B.I. each year up to the last day of the month corresponding to the date on which the application was filed. Following the lapse of the aforementioned term and within six months from said term the owner of the patent may pay the due fees increased by fifty percent.
3. Annual fees for protection shall also be paid in advance for each year for any patent application, as though the patent had been granted. If these fees are not paid within the terms prescribed in paragraph 2, article 16 applies.
4. As date of payment of the fees there shall be regarded the date of filing of the application to which the relevant receipt is attached.
5. The above dispositions apply respectively to utility models and to all other cases for which the payment of fees is provided for by this law.
6. The amount of the fees is determined by decision of the Administrative Council of O.B.I.
7. Fees for protection which have been paid in advance and which relate to a subsequent period of time shall be exempted from all subsequent readjustments.

8. In case of irrevocable rejection of the application, the proportion of the annual fees for protection paid in advance and corresponding to a period of inexploitation shall be restituted.

Article 25.

Repealed — Transitional Dispositions — Authorisations

1. For patent applications filed prior to the entry into force of this law, the dispositions being in force on the filing date of the application apply with regard to the prerequisites for the granting procedure of the patent. The patents shall be granted by O.B.I. Patents granted on the basis of these applications and patents already granted prior to the entry into force of the present law shall be regulated by the dispositions of the present law, with the exception of paragraph 1 of article 11, and any possible acquired rights shall be reserved. The duration of the validity of the aforementioned patents shall be fifteen years starting the day following the filing date of the patent application.

2. Starting the date the present law enters into force, the following shall be repealed: law no 2527/1920 “regarding patents”, article 668 of the Civil Code, Royal Decree dated 22.11.1920 “regarding execution of law No 2527 concerning patents”, articles 1 to 12 inclusive of law No 1023/1980 “regarding amendment and completion of law No 2527/1920”, case of article 7 of Presidential Decree No 574/1982 “Re-assignment of competencies of the Ministries”, as well as all other dispositions contrary to those of the present law or related to matters governed by the present law. Law No 4325/1963 regarding inventions concerning the national defence of the country” shall remain in force. Wherever law No 4325/1963 refers to the Ministry of Commerce it is understood as O.B.I. and any references to law No 2527/1920 shall be replaced by the corresponding regulations of the present law.

3. As long as the reserve formulated by Greece in accordance with article 167 paragraph 2, passage (a) of the Convention for the European patent shall remain in force, no patents for pharmaceutical products shall be granted by O.B.I. within the meaning of article 2 of law No 1316/1983.

4. Upon publication of the present law, by decision of the Minister, the staff of all categories serving at the Patent Section of the Ministry of Industry, Energy, and Technology, may be placed at the disposal of O.B.I. in order to serve its functional needs, in deviation from all other relevant dispositions. The period of their service at O.B.I. shall be regarded in each case as a period of real service with the Ministry of Industry, Energy, and Technology. In accordance with the same decision, the equipment of any nature of the said Section may be transferred to O.B.I.

5. By presidential decree to be issued following recommendation of the Ministers of Commerce and of Industry, Energy, and Technology, the competencies of the Directorate of Commercial and Industrial Property of the Ministry of Commerce for registration and grant of trade marks may be transferred to O.B.I.

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Article 29.

Entry into force

The present Law shall enter into force upon its publication in the Official Journal of the

Government, with the exception of the provisions of Parts Two, Three and Four as well as of Article 25 paragraphs 1 and 2 of this law, which shall enter into force as from 1 January 1988. As from the entry into force of the present law, the competencies of the Patent Section of the Ministry of Industry, Energy and Technology shall be transferred to O.B.I.

NOTE: Paragraphs 6 and 7 of article 25, and articles 26, 27 and 28, do not concern OBI's competences and are, therefore, omitted.