

Act of the Realm of 14 December 1995, aligning the Patents Act of the Realm 1995 with the World Trade Organisation Treaty, concluded in Marrakech on 15 April 1994 (with annexes 1, 2 and 3) and amending the Patents Act of the Realm 1987.

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Article I ➡

In Article 17 A (6) of the Patents Act of the Realm "or, where a European patent is concerned, within the Netherlands" shall be inserted after "within the Kingdom", and "or has been maintained" shall be inserted after "for which a patent has been granted as a result of that restoration".

Article II ➡

The Patents Act of the Realm 1995 shall be amended as follows:

- A. In Article 9 (1) "or party to the World Trade Organisation" shall be inserted after "in any of the countries party to the International Union for the Protection of Industrial Property".
- B. In Article 26 "in the Netherlands" shall be deleted.
- C. Article 28 shall be amended as follows:
 1. In paragraph (1) "32 (1)" shall be replaced by "32(2)".
 2. Paragraphs (4) and (5) shall be replaced by a new paragraph (4) reading:
 4. The division or amendment may be made until such time as the patent application is to be entered in the patent register, provided that for the applicant, who has requested a search of the state of the art referred to in Article 32, a time limit of at least two months is available after dispatch of the notice referred to in Article 34(4). At the request of the applicant, the Office may extend the latter time limit to four months after dispatch of the notice referred to in Article 34(4).
- D. (This amendment only concerns the Dutch text.)
- E. (These amendments only concern the Dutch text.)
- F. In Article 32(2) "the date of filing of the original application provided for in Article 29(1)"

shall be replaced by "the date of filing or priority referred to in paragraph (1)".

- G. In Article 33(1), "the time limit stipulated in Article 32(1)" shall be replaced by "the time limit stipulated in Article 32(1) or (2)."

- H. (These amendments only concern the Dutch text.)

- I. In Article 37(4) "applicant" shall be replaced by "proprietor of a patent".

- J. Article 48(5) shall be amended as follows:

1. "32(1)" shall be deleted.
2. A new sentence shall be added, reading:

Contrary to Article 32(1) and (2), a request for a search of the state of the art, prior to the grant of a patent, with regard to the subject matter of a converted application or its divisional application, may be filed within of two months after the date noted on the converted application pursuant to Article 48(1), respectively two months after the filing date of the divisional application.

- K. Article 57 shall be amended as follows:

1. In the last sentence of paragraph (1) "The lodging of an appeal as referred to in Article 81" shall be replaced by "The lodging of an appeal at the Office or an appeal to the judge".
2. In paragraph 4 "in so far as the patent for which the license is requested represents a considerable advance" shall be replaced by "insofar as the patent for which the license is requested involves an important technical advance of considerable economic significance".

- L. After Article 57 a new Article shall be inserted, reading:

Article 57a

Contrary to Article 57, an involuntary license under a patent in the field of semi-conductor technology may only be granted for public non-commercial use or to remedy a practice determined after judicial or administrative process to be anti-competitive.

- M. Article 58(4), second sentence, shall read as follows:

A license granted pursuant to Article 57(4), first sentence, shall only be transferable together with the patent of the licensee.

- N. After Article 58, a new Article shall be inserted, reading:

Article 58a

1. A license granted pursuant to Article 57 shall not be exclusive.
 2. A license granted pursuant to Article 57 shall not be transferable other than together with the part of the company or the goodwill of the part of the company in which the license is being worked.
 3. A license granted pursuant to Article 57 may be revoked when, taking into account a reasonable protection of the licensee's justified interests, the circumstances which led to the grant of the license, no longer exist and it is unlikely that the circumstances will exist again. Upon a reasoned request, the authority which granted the license shall examine the continued existence of the said circumstances.
- O. In Article 61(2) "but only as from the fifth year after the filing date referred to in Article 80 of the European Patent Convention" shall be inserted after "starting after the year referred to in Article 86(4) of the European Patent Convention has ended,"
- P. In Article 70 a new paragraph shall be inserted, reading:
- The proprietor of a patent is entitled to claim that movable property with which his rights have been infringed, be withdrawn from the market, destroyed or made unfit for use, and to claim that material and machinery, which mainly have been used for the production of said property, be withdrawn from the market. For the assessment of the claim, the nature of the infringement, the measures requested and the interests of third parties shall be balanced against each other.
- (The present paragraph 6 will be paragraph 7.)
- Q. In Article 54 "within four weeks" shall be replaced by "within two months".
- R. In Article 100(3) "the Articles 24 and 26" shall be replaced by "Article 24".
- S. Article 108(1) shall read as follows:
1. Contrary to Articles 102(1)(c) and 103(1), Articles 57, 57a, 58 and 58a of this Act of the Realm shall apply with respect to licenses, in stead of Article 34 of the Patents Act of the Realm 1987.
- T. In Article 109 "referred to in Article 4" shall be replaced by "referred to in Articles 4 and 75(2)" and "the date referred to in Article 4(2)" by "the date referred to in Article 4(2) of this Act or in Article 80 of the European Patent Convention".
- U. The first sentence of Article 113(2) shall read as follows:
- This Act is binding for Aruba only with respect to Articles 40 to 45, 59, 101, 102(1), 104 to 108, 111 and 114.