

PATENTS LAW 5727-1967

In case of discrepancies, the Hebrew version shall prevail

CHAPTER ONE: DEFINITIONS

Definitions

1. In this Law –

"**WTO**" – the World Trade Organization established by the agreement signed at Marakesh on April 15, 1994;

"**examiner**" – a person appointed under Law to be a Patent Examiner or a Chief Examiner or the Superintendent of Examiners;

"**owner of an invention**" – the inventor himself or persons who derive title under him, being entitled to the invention by operation of Law, by transfer or by agreement;

"**patent holder**" – the person registered in the Register as the person to whom a patent was granted or to whom ownership of a patent has passed;

"**Office**" – the Patent Office said in Chapter Ten;

"**Convention State**" – a Member State of the Union for the Protection of Industrial Property, by virtue of the Paris Convention for the Protection of Industrial Property, or a group of Convention States who maintain a joint system for the submission of patent applications, including territories to which the Convention was made applicable by virtue of powers granted for this purpose by the Convention;

"**Member State**" – a Convention State or a state that is a member of the WTO;

"**exploitation of an invention**" –

(1) in respect of an invention that is a product – any act that is one of the following: production, use, offer for sale, sale, or import for purposes of one of the said acts;

(2) in respect of an invention that is a process – use of the process, and in respect of a product directly derived from the process – any act that is one of the following: production, use, offer for sale, sale, or import for purposes of one of the said acts;

but exclusive of any of the following:

(1) an act that is not on a commercial scale and is not commercial in character;

(2) an experimental act in connection with the invention, the objective of which is to improve the invention or to develop another invention;

(3) an act performed under the provisions of section 54A.

"**patent attorney**" – a person registered in the Register of Patent Attorneys who holds a patent attorney's license;

"**Register**" – the Register of Patents kept under the provisions of section 166;

"**Registrar**" – the person appointed Registrar of Patents under section 157, including – subject to the provisions of section 158 – a Deputy Registrar;

"application date" – the date on which the patent application was submitted, as prescribed for that purpose in section 15, unless a different date is prescribed by or under this Law.

CHAPTER TWO:
PATENTABILITY

Right to apply for a patent

2. The owner of a patentable invention is entitled under the provisions of this Law to apply that a patent be granted him for it.

What constitutes a patentable invention

3. An invention, whether a product or a process in any field of technology, which is new and useful, can be used industrially and involves an inventive step, is a patentable invention.

What is a new invention

4. An invention is deemed new if it was not published, in Israel or abroad, before the application date –

(1) by written, visual, audible or any other description, in a manner that enables a skilled person to make it according to the particulars of the description;

(2) by exploitation or exhibition, in a manner that enables a skilled person to make it according to the particulars thus made known.

What is an inventive step

5. An inventive step is a step which does not, to an average skilled person, appear obvious in the light of information published before the application date in ways said in section 4.

Publications not affecting right of owner of invention

6. The right of the owner of an invention to be granted a patent shall not be affected by publication said in section 4 –

(1) if it is proved that the matter published was obtained from him the owner of the invention or his predecessor in title and was published without his consent, and if the patent application was filed within a reasonable time after the publication became known to the applicant; or

(2) (a) the publication was by the owner of the invention or his predecessor in title in one of the following ways:

(i) display at an industrial or agricultural exhibition in Israel or at a recognized exhibition in one of the Member States, of which official notice was given to the Registrar before its opening;

(ii) publication of a description of the invention at the time of a said exhibition;

(iii) use of the invention for the purposes of the exhibition and at the place of the exhibition;

(b) the publication was by use of the invention, even without its owners' consent, at the time of the exhibition, at the place of the exhibition or outside it, on condition that the patent application was submitted within six months after the exhibition opened;

(3) publication was by way of a lecture by the inventor before a scientific society or by publication of the lecture in official transactions of the society, on condition that the Registrar was given notice of the lecture before it was delivered and that the patent application is filed within six months after the aforesaid publication.

Restriction on granting of patents

7. Notwithstanding the provisions of section 2, no patent shall be granted for –

(1) a method of therapeutic treatment on the human body;

(2) new varieties of plants or animals, except microbiological organisms not derived from nature.

Patent to be for one invention

8. A patent shall be granted for a single invention only.

First application has better right

9. If more than one applicant applied for a patent for the same invention, then the patent shall be granted the one who first validly applied for it.

Priority right

10. (a) If the owner of an invention submitted an application for a patent in Israel for an invention for which he or his predecessor in title already submitted a previous application for a patent in a Member State (hereafter: previous application), then he may request that, for the purposes of sections 4, 5 and 9, the date of the previous application be deemed the date of the application filed in Israel (hereafter: priority right), if all the following conditions are met:

(1) the application in Israel is submitted within 12 months after the previous application was submitted; if more than one previous application was submitted on the same matter – after the date on which the earliest of them was submitted;

(2) the claim for priority right is made not later than two months after submission of the application in Israel;

(3) a copy of the specification submitted with the previous application and of the drawings that accompanied it, the specification being certified by a competent authority in the Convention State in which the previous application was submitted, is submitted to the Registrar at the time prescribed in regulations;

(4) it appears to the Registrar that the invention described in the previous application and the invention for which a patent is sought in Israel are essentially the same.

(b) If the claim for a priority right is based on more than one previous application, and a priority right is claimed on the basis of each of those applications, then the provisions of

subsection (a) shall apply to each part of the invention according to the date of the earliest previous application that relates to that part.

(c) If the claim for a priority right is based on part of a previous application, then the provisions of subsection (a) shall apply as if that part had been claimed abroad in a separate previous application.

(d) A priority right may be claimed in respect of part of a patent application, and the provisions of subsection (a) shall thereupon apply to that part only.

CHAPTER THREE:
PROCEDURE OF GRANTING PATENT

Article One: Patent Application

Submission of patent application

11. (a) A patent application shall be submitted to the Office in the prescribed manner and form, together with the prescribed fee, and it shall include the name of the applicant, an address in Israel for the service of documents and a specification of the invention.
- (b) If the applicant is a person other than the inventor, then he shall state in the application how he came to be the owner of the invention.

Specification

12. (a) The specification shall include a title by which the invention can be identified, its description with drawings that may be necessary, and also a description of the manner in which the invention can be performed, enabling a skilled person to perform it.
- (b) For purposes of subsection (a), if the subject of the invention is a biological material or a process for the production of a biological material or an invention that involves the use of a biological material, and if the biological material was deposited with a deposit institution, then part of the description of the invention or of the manner of its performance may consist of referral to that deposit, all in a manner and on conditions to be prescribed by the Minister of Justice with approval by the Knesset Constitution, Law and Justice Committee.

For purposes of this section –

"biological material" – a biological material not easily available to the public, which cannot be described in a manner that will enable a skilled person to perform the invention, on condition that the biological material can be duplicated or reproduced, either independently or in a host animal or plant cell;

"deposit institution" – an institution recognized as an international deposit authority under section 7 of the Budapest Convention, or an institution which the Registrar recognized for purposes of this section, notice thereof having been published in Reshumot;

"Budapest Convention" – the Budapest Convention for the International Recognition of Living Matter for Patent Proceedings, signed on April 28, 1977, as amended on September 26, 1980; the Convention is available in the Office for inspection by the public.

Claims

13. (a) The specifications shall end with a claim or claims that define the invention, on condition that each said claim reasonably arise out of the subject described in the specification.
- (b) It is permissible to express in the claim any of the basic elements of the invention as a means or a step for the performance of a certain act, and it is not necessary to specify the structure, the material or the acts required for the performance of that act; a claim

expressed as aforesaid shall be deemed to include particulars of the relevant structure, material or acts, as described in the specifications.

Acknowledgment of submission

14. When an application has been submitted in the prescribed manner, the Registrar shall, as soon as possible, confirm to the applicant the fact and date of its submission.

Application date

15. The date of the patent application shall be the time when it was first submitted to the Office, even if it was defective in form; however, if on the face of it no invention is described in it or if the name of the applicant is not stated or the fee payable for submitting the application has not been paid, then the application date shall be the time when the said requirements are met.

Public notice that application was submitted

16. (a) As soon as possible after the application was submitted to the Office, the Registrar shall, at the applicant's expense, publish in Reshumot the name of the invention for which the patent is applied for, the name of the applicant and the application date, and – if a priority is claimed – the name of the Member State in which the previous application was submitted, the date when it was submitted and its number or other identifying mark given it by the authority to which it was submitted, and also other particulars prescribed by the Minister of Justice with approval by the Knesset Constitution, Law and Justice Committee.

(b) If an application for priority right was submitted after the fact of the application already has been published under subsection (a), the fact of the application shall be published again, at the applicant's expense, together with the additional particulars.

(c) The Minister of Justice shall, by order, prescribe the date when this section goes into effect.

Article Two: Examination and Acceptance of Application

Acceptance of application

17. (a) The Registrar or an examiner shall examine whether the application meets all the following conditions:

(1) the invention in it is patentable within the meaning of Chapter Two;

(2) the application complies with the provisions of Article One of this Chapter;

(3) the applicant paid the publication expenses under section 26.

(a1) The examiner shall accept the application if he is satisfied that the conditions of this section have been met; when he has accepted the application, he shall so notify the applicant; the notice shall state the acceptance date.

(b) Notwithstanding the provisions of subsection (a)(1), no examination shall be necessary if the invention is not patentable by virtue of section 4(2).

(c) If the conditions specified below are met by an application, then it shall be deemed to have complied with the provisions of section 4, 5, 8, 12 and 13:

(1) the applicant submitted a patent application on the same invention (in this section: parallel application) and received a patent in a state, the name of which appears in the list published by the Registrar in

Reshumot (in this section : parallel patent), and all the following hold true:

- (a) priority right was lawfully claimed for the patent application in Israel under section 10, by virtue of the parallel application;
- (b) priority right was claimed for the parallel application under the Law applicable to it, by virtue of the patent application in Israel;
- (c) priority right was lawfully claimed for the patent application in Israel by virtue of another application for protection submitted in a Member State, and by virtue of the other application priority right was claimed for the parallel application under the Law applicable to it;
- (2) the applicant requested in writing that the provisions of this section be applied to his patent application;
- (3) the applicant delivered to the Office the claims in the parallel patent, translated to the language in which his patent application was submitted in Israel;
- (4) the claim or claims in the application are identical to the claims in the parallel patent, but the application can include fewer claims than those in the parallel patent;
- (5) the applicant submitted a description and drawings identical to those in the parallel patent, or a description and drawings as said in section 12.
- (d) The Registrar and also the Superintendent of Examiners or his deputy may refrain from accepting an application, if they determined on the basis of the material at their disposal or submitted to them in the course of the examination that the application does not comply with one of the provisions specified in subsection (c) or that there is some other special reason why the application should not be accepted.
- (e) If proceedings for cancellation of the parallel patent are in progress, or if proceedings of opposition to the grant of the parallel patent outside of Israel are in progress, then the applicant shall so notify the Registrar not later than the date on which the patent is granted in Israel.
- (f) For purposes of this section, "**state**" – including a group of states who maintain a joint system for the grant of patents.

Additional means of examination

18. (a) The examiner shall use at least one of the following additional means of examination:

- (1) the list of documents used by patent authorities in any foreign state in the examination of a patent application on the same patent application, submitted in a foreign country by the applicant or by his predecessor in title to the invention;
- (2) a list of documents published before the application date, known to the applicant and directly connected with the invention;
- (3) copies of publications and documents, a list of which the applicant must submit under this Article, if the examiner so demands;
- (4) copies of publications and documents mentioned in publications and documents, a list of which the applicant must submit under this Article, if the examiner so demands;
- (5) transmission of the specifications of the application – in order to search for material that will enable the Office make the examination – to an institution in Israel or abroad, with which the Office contracted under any Law by an agreement drawn up by the Registrar, including a section on keeping any patent application confidential and on nondisclosure under section 165;

and to that end he may do one or more of the following:

- (1) require the applicant to submit to him all the documents specified in paragraphs (1) to (4);
- (2) transmit the specification in the application for the search said in paragraph (5).

Applicant must keep Office informed

18A. Until the application is accepted the applicant must keep the Office informed of any change in the list of publications and documents said in section 18, if he or his representative was made aware of the said changes.

Notice of institutions that assist in the examination

18B. The Registrar shall publish a notice in Reshumot of the institutions with which the Office contracted under section 18(5), and of the categories of applications in respect of which he intends to use the means specified in the said section.

Means of enforcement on examination procedures

18C If a misleading particular was delivered in an applicant's reply to a demand under section 18, or if the applicant knowingly did not keep the Office informed of a substantive change in the list of publications and documents, which he must up-date under the provisions of section 18A, and if the patent was granted or if the application was accepted, then –

- (1) the Court or the Registrar may one or more of the following in a proceeding before them:
 - (a) cancel the patent or abstain from granting the patent;
 - (b) give a license to exploit the patent to any person who desires it, as if the Court or the Registrar took the place of the patent holder, on condition to be determined by agreement between the parties and – if there is no agreement – by the Court or the Registrar, as the case may be;
 - (c) order the term of the patent to be shortened.
- (2) The Court may impose a fine as said in section 61(a)(1) of the Penal Law 5737-1967 on the person who delivered the misleading particular or who knowingly did not keep the Office up-to-date on the list of publications and documents, as the case may be.

Postponement of examination

19. If all or part of the invention is found not to be patentable, because there is an earlier application which has not yet been published under section 26, then the Registrar or an examiner may direct that the examination of the later application be postponed until after the publication of the earlier application, and they must do so if the applicant whose application was found not patentable as aforesaid so requests.

Notification of defects

20. If the Registrar or an examiner finds that an invention is not patentable or that the application does not comply with the provisions of Article One of this Chapter, then he shall inform the applicant of the grounds why the invention is not patentable or what are the defects of the application.

Correction of defects

21. If the applicant did not, within a time prescribed by regulations, remove the grounds of the invention's not being patentable or did not correct the defects of which he was informed under section 20, then the Registrar shall refuse to accept the application.

Rehearing of refusal to accept application

21A. If the Registrar refused to accept an application under section 21, then he may – on the applicant's application – reconsider the refusal, on condition that the application be submitted within 12 months after the day on which the Registrar refused to accept it as aforesaid.

Cancellation of patent application

21B. The applicant may cancel his patent application up to the grant of the patent; however, the Registrar may cancel the cancellation on conditions prescribed by him, on condition that he is satisfied that the application was cancelled unlawfully.

Amendment of specification

22. The applicant may, at any time before the application is accepted, amend the specification in his application, either in consequence of a notice under section 20 or at his own initiative.

Application date after amendment

23. If amendments of a substantive nature were made in the specification, then the Registrar may prescribe, for the purposes of sections 4, 5 and 9 –

- (1) if it is possible to distinguish between those amendments and the existing specification – that the date of the amendments shall be the date on which they were submitted to the Office;
- (2) if it is not possible to distinguish between the amendments and the existing specification – that the date of the entire application shall be the date on which the amendments were submitted to the Office.

Division of application

24. (a) As long as the application has not been accepted, the applicant is entitled to demand that it be divided into several applications.

(b) If the application includes more than one invention, then the Registrar may, as long as he has not accepted the application, direct the applicant to divide his application.

(b1) (1) In this subsection –

"examined application" – a patent application that is being examined under this subsection;

"other application" – a patent application that is not the examined application and the date of which, for purposes of section 9, precedes the examined application in respect of part of the examined application;

(2) the Registrar may an examined application, the other application or both applications to be divided, or the elimination of some of the claims in each of the said applications, all as the applicant chooses in respect of his application, if all the following hold true for the examined application:

(a) the invention that is the subject of the examined application was found wholly or partly unpatentable because of the existence of the other application;

(b) acceptance of the other application was not yet published under section 26;

(c) the invention that is the subject of the other application was found wholly or partly unpatentable because of the existence of the examined application;

(c) Subject to the provisions of section 23, the date of each of the applications divided under subsection (a) or (b) shall be the same as that of the application from which it was divided.

Dispute between applicants

25. If an application was submitted by more than one applicant, and if the Registrar is satisfied that the prosecution of the application is held up because of the dispute between the applicants, then he may act on the initiative of some of them on conditions prescribed by him, on condition that the initiators of the action give the applicants who are not parties thereto notice of every proceeding before the Registrar and of any amendment made in the specification; however, the Registrar shall entertain a request for cancellation of the application only with the consent of all applicants.

Publication of acceptance of application

26. (a) When an application has been accepted under this Article, the Registrar shall publish the fact of its acceptance in Reshumot at the applicant's expense.

(b) The publication shall include –

(1) the name of the invention and its category under the categories used by the Office;

(2) the applicant's name;

(3) the application date;

(4) if a priority right was claimed for the application – the Member State in which the previous application was submitted, the date of its submission and the number or other identification mark given it by the authority to which it was submitted;

(5) a description of what the Registrar believes to be the essence of the invention;

(6) the address in Israel for delivery of notices to the applicant, as given to the Registrar;

(7) every other particular relevant to the matter, which the Registrar believes should be included in the publication.

Description not evidence of specification

27. The description of the essence of the invention, as published under section

26(b)(5), shall not shall not be evidence when the Court or the Registrar construe the specification in any legal proceeding.

Acceptance of application is evidence

28. Acceptance of the application shall be conclusive evidence that it includes only one invention and that the provisions on the form of the application, the specification and the drawings have been complied with.

Amendment of specification after acceptance

29. After his application was accepted under this Article, the applicant may amend the specification in his application in the manner prescribed in Article Three of Chapter Four, as if he were a patent owner.

Article Three: Opposition to Grant of Patent

Time for opposition to grant of patent

30. Any person may – within three months after the date of publication of the application under section 26 – oppose the grant of a patent by written notice to the Registrar.

Grounds for opposition

31. The following are the grounds for opposition to the grant of a patent:

- (1) there is a reason, because of which the Registrar could have refused to accept the patent application;
- (2) the invention is not patentable under section 4(2);
- (3) the opponent, and not the applicant, is the owner of the invention.

Powers of Registrar in opposition proceeding

32. (a) The Registrar may accept all or part of the opposition, he may reject it or he may exercise his powers under sections 18, 23 and 24 in respect of the application.

(b) If the Registrar demanded that the application be divided, then he shall not publish the separated applications under section 26.

Hearing arguments on ownership of invention

33. (a) If opposition was submitted for grounds said in section 31(3), then the opponent may request that the patent be granted to him, and the Registrar may – in addition to any other relief – grant the patent to the person who proved that he is the owner of the invention.

(b) In proceedings under this section the Registrar may join any person whom the Registrar believes to have an interest in the matter.

Powers of Registrar after cancellation of opposition

34. If opposition was duly submitted under section 30 and was subsequently canceled, then Registrar may refuse to grant the patent applied for if, in the course of the opposition, he discovered material according to which the application should not have been accepted in the first place.

Article Four: Grant of Patent

In the absence of opposition patent shall be granted

35. If no opposition was submitted by the end of the time set for its submission, or if opposition was submitted, but was withdrawn or was finally rejected by the Registrar or by the Court, then the patent shall be granted to the person who is the owner of the invention at that time, unless the Registrar used his power under section 34 or unless appeal was submitted under section 174 against the Registrar's decision to reject the opposition and written notice that the appeal had been submitted was delivered to the Registrar not later than 10 days after the final date for submission of a said appeal.

Registration and certificate

36. The grant of the patent shall be registered in the Register and a certificate to that effect shall be given to its owner.

Reservation on responsibility

37. The examination of the application and the grant of the patent shall not be a guaranty that the patent is valid, and the State or its employees shall bear no responsibility whatsoever because the patented was granted.

38. Repealed

State the inventor's name

39. An inventor for whose invention a patent was applied for or his survivors may demand that the inventor's name be stated in the specification, the Register and in the patent certificate, and the Registrar shall accede to the demand subject to the provisions of sections 40 and 41, on condition that the demand was submitted at the prescribed time and in the prescribed manner.

Hearing of owner of invention and patent holder

40. If the inventor or his survivors request that the inventor's name be stated when they are not the owners of the invention or of the patent, then the Registrar shall notify the owner of the invention or of the patent and – if opposition proceedings under section 30 are pending at the time – any other person who is a party to those proceedings; the

Registrar shall give his decision after hearing the arguments of the persons concerned, if they so requested within the prescribed time.

Demand not acceded to

41. The Registrar shall not entertain a demand that the inventor's name be stated, if he believes that it is proper to hear it like an application, the grounds for which are as said in section 31(3) or section 73.

No stipulation not to state name

42. A stipulation by which the inventor waives the right to demand that his name be stated is void.

Statement of name does not confer right

43. If a person's name is stated as the inventor, that alone shall not entitle him to any right whatsoever to the invention or to the patent.

Article Five: Patent of Addition

Patent of addition

44. (a) If a patent holder is the owner of an invention which is an improvement or modification of an invention for which a patent (hereafter: main patent) was granted, then he may request that a patent for the second invention be granted him as a patent of addition.

(b) A patent of addition shall be granted for an invention that is patentable under subsection (a) as a patent of addition, even though it does not involve an inventive step beyond the invention covered by the main patent or by any patent of addition thereto.

(c) If an applicant submitted several applications, then he may request that the patent for one of them be granted as a main patent and the patents for the others as patents of addition thereto, and subsections (a) and (b) shall apply mutatis mutandis.

Restriction on grant of patent of addition

45. A patent of addition shall not be granted if the for it application was submitted before the date of the application for the main patent.

Grant of patent of addition to be conclusive evidence

46. The grant of a patent of addition shall be conclusive evidence that the subject matter of that patent is an improvement or modification of the main patent and that it is fit to be a patent of addition.

Term of patent of addition

47. A patent of addition shall be in effect as long as the main patent is in effect, and no fee shall be payable for it under section 56.

Effect of patent of addition if main patent is cancelled

48. (a) If a main patent was cancelled under the provisions of Article Four in Chapter Four or of Article Two in Chapter Seven and if the patent of addition was not cancelled together with it, then the patent of addition shall become an independent patent if the owner of the patent of addition so requested, and it shall remain in effect until the end of the period during which the main patent would have been in effect, had it not been cancelled, on condition that the fees prescribed by section 56 are paid on it at the times and in the amounts which were set for the payment of fees on the main patent.

(b) If a main patent was canceled and if it had more than one patent of addition, then subsection (a) shall apply to all of them; but –

(1) the obligation to pay fees prescribed by section 56 shall apply only to the patent of addition with the earliest application date, and all the other patents shall be deemed to be additional to it;

(2) if the patents of addition do not constitute improvements or modifications of each other, then subsection (a) shall apply to each of them separately.

CHAPTER THREE "A": INTERNATIONAL APPLICATIONS

Definitions

48A. In this Chapter –

"Convention" – the Convention of Cooperation on Patents, signed in Washington on June 19, 1970, and amended of September 28, 1979, and on February 3, 1984, including the regulations to the Convention, as they were in effect on January 1, 1994; the Convention is available in the Office for inspection by the public.

"international application" – a patent application submitted under the Convention, even if it does not address Israel under section 4(1)(ii) of the Convention;

"International Office" – within its meaning in section 2 of the Convention;

"addressed Office" – a national Office or an international organization, to which an application is submitted in accordance with section 2 of the Convention;

"international application addressed to Israel" – an international application submitted in Israel or in another country, which the applicant addressed to Israel under section 4(1)(ii) of the Convention.

Submission of application

48B.(a) The Office shall be an addressed Office for applications submitted by Israel citizens and residents, shall handle the said applications and shall collect the fees set in the Convention, all as provided by the Convention.

(b) The Registrar shall publish in Reshumot the particulars and amounts of the fees set in the Convention, as they are from time to time; every amount under subsection (a) shall be collected for and transmitted to the institutions and authorities prescribed in the Convention, under the provisions of the Convention and under any enactment.

(c) An application submitted to the Office or to a receiving Office in another state shall – for purposes of sections 98 and 103 – be deemed an application submitted abroad.

(d) In this section, **"institutions and authorities"** includes the Office.

Provisions on applications

48C. The provisions of this Law shall apply to applications addressed to Israel, with the changes specified in this Chapter and with the changes specified below:

(1) the provisions of sections 11, 14, 15, 17(a) and 20 shall not apply;

(2) the provisions of section 16 shall apply to an application, in respect of which the applicant met the conditions prescribed in section 48D;

(3) the date of the application shall be determined in accordance with the provisions of the Convention;

(4) the provisions of section 165(a) shall not apply to information published under the Convention in respect of applications;

(5) notwithstanding the provisions of section 168(a), documents published according to the Convention in respect of applications shall be open for public inspection.

Entering the national stage

48D. (a) If an applicant submitted an application addressed to Israel, then he shall pay the national fee prescribed under section 194 and mentioned in section 22 or in section 39 of the Convention (hereafter: national fee);

(b) An applicant who submitted an application addressed to Israel shall be deemed to have withdrawn his application, if he did not pay the fees prescribed in the Convention or the national fee by the times set in the Convention or in regulations, or if he did not perform one of the acts specified below by the prescribed time:

(1) delivered a copy of the application to the Office, unless a copy was delivered to the Office according to the provisions of the Convention;

(2) delivered a certified English translation of the application, if the application was not submitted or was not published in English.

(c) The Registrar may – only under the provisions of section 48 of the Convention – extend the times set under this section; however, for purposes of subsection (b)(2) the Registrar may extend the time to a period of up to three months, and under the

provisions of section 48 of the Convention alone he may extend the time for a longer period.

Documents, amendments and fees

48E. When a person comes to comply with the provisions of section 48D, then he shall submit the documents to the Office, make amendments in the documents and pay the fees, all as the Minister of Justice shall prescribe with approval by the Knesset Constitution, Law and Justice Committee.

Examination of application

48F. (a) An application shall only begin to be examined at the end of the period set under section 48D for payment of the national fee, but the Registrar may order that examination of an application begin earlier, if the applicant so requested in writing and on condition that he complied with the provisions of this Chapter.

(b) An application shall not be accepted and shall not be refused before the end of the time set therefor in sections 28 and 41 of the Convention, except by the application's written consent.

(c) The examiner shall examine if all the following apply in respect of an application:

(1) the invention in the application is patentable under Chapter Two;

(2) the provisions of sections 12, 13 and 48D have been complied with;

(3) the applicant paid the costs of publications under section 26.

(d) If the examiner finds that the provisions of this section have been complied with, then he shall accept the application and he shall so notify the applicant; the date of acceptance shall be stated in the notice.

Notice of shortcomings

48G.(a) If the examiner concluded that the invention in an application is not patentable, or that the provisions of sections 12, 13 and 48D have not been complied with, then he shall inform the applicant of the grounds of the invention's non-patentability or of the shortcomings in the application, as the case may be.

(b) A notice under subsection (a) shall be treated, for purposes of section 21, like a notice under section 20.

Hearing before Registrar

48H.(a) If a receiving office refused to give an international acceptance date to an application addressed to Israel, or if a receiving office or an international office determined that it deems the applicant to have withdrawn his application or to have removed Israel as an addressed country from his application, and if the application requested the Registrar in writing that he cancel the refusal or the determination, then the Registrar shall hold a hearing on the matter.

(b) If the Registrar is satisfied that the refusal or determination said in subsection (a) was due to an error or omission by a receiving office or an international office, then he may, as the case may be –

- (1) treat the application as if the error or omission was not committed on it and give the application an international submission date;
- (2) deem the application as not having withdrawn his application or as not having removed Israel as an addressed country from his application.

CHAPTER FOUR: **THE PATENT, ITS MODIFICATION** **AND CANCELLATION**

Article One: Rights That Derive from a Patent

Rights of Patent holder and restrictions on exploitation of patent

49. (a) A patent holder is entitled to prevent any other person from exploiting the invention for which the patent has been granted without his permission or unlawfully, either in the manner defined in the claims or in a similar manner which – in the light of what is defined by those claims – involves the essence of the invention which is the subject matter of the patent (hereafter: "infringement").

(b) The grant of a patent does not constitute permission to exploit any invention unlawfully or in a manner that constitutes laws rights exist under any enactment.

Applicability of patent

50. (a) If the invention is a process, then the patent shall apply also to the direct product of the process.

(b) For purposes of an invention that is a production process – in a suit for infringement the defendant must prove that the process used by him for the production of an identical product differs from the patent protected process; for purposes of this subsection, an identical product produced without the agreement of the patent holder shall – as long as the opposite has not been proven – be deemed a product produced by a patent protected process, if the following two conditions apply:

(1) the patent holder cannot find out by reasonable efforts which production process was actually used to produce the identical product;

(2) it is very reasonable that the identical product was produced by the patent protected process.

Effect of patent against the State

51. A patent is in effect against the State, subject to the provisions of Chapter Six; however, the provisions of the Civil Procedure Amendment (The State as a Party) Law, 5718-1958, shall apply.

Term of Patent

52. The term of a patent shall be twenty years from the application date.

Right based on prior exploitation

53. If, on the determining date, a person in Israel in good faith exploited the invention for which the patent is applied for, or if he in good faith made actual preparations for its exploitation, then he shall be entitled to exploit the invention himself and in the course of his business without consideration; for the purpose of this provision, the "**determining date**" is the date on which application for the patent was submitted in Israel or – if priority right under section 10 is claimed for that application – the date of submission of the previous application on which the claim for priority right is based.

Transfer of exploitation right

54. The right under section 53 cannot be transferred, devolved or transmitted by inheritance, except together with the business in which that invention was used.

Experimental act in order to obtain license

54A. An experimental act, which is part of an effort to obtain a license to market the product after the patent has lapsed, does not constitute "exploitation of an invention", if the following two conditions are met:

- (1) the effort to obtain a license is made in order to obtain a license in Israel or in a country, in which an experimental act on a patent protected invention for the purpose of obtaining a license is permitted before the patent lapses;
- (2) any product produced under the terms of this section is not used – both while the patent is in effect or thereafter – for any purpose other than obtaining a license as aforesaid;

for purposes of this section, "**license**" – certification, permit or any other document required under Law in order to market the product.

Right of the State by virtue of an earlier invention

55. (a) The State may exploit an invention for which a patent was granted to another person to the extent necessary for its requirements and without paying royalties or other compensation to the patent holder or to holders of other right in the patent, if –

- (1) it is also a service invention, as said in section 132, invented by an employee who must give notice under section 137 before the date on which the patent application is submitted, and if priority right is claimed for that application under section 10, then before the date of the application abroad;
- (2) no protection was claimed in Israel or elsewhere for the service invention said in paragraph (1), either by the inventor, by the State or by a person to whom rights in the invention were transferred;
- (3) before the date said in paragraph (1) the service invention was registered in the Registers prescribed therefor and in the manner prescribed.

(b) The provision of subsection (a) shall also apply to an invention made by a person who does not have to give notice under section 137, if the rights to it were transferred to the State and the other conditions said in that subsection have been complied with in its respect.

(c) If the State is allowed to exploit an invention under subsection (a), then the Government may permit its exploitation – only for the requirements of the State – also by a person who acts under a contract with the State.

(d) The provisions of this section shall not derogate from the rights of a State employee under Chapter Eight, from rights by virtue of an agreement or from rights granted to a person who transferred the invention to the State.

Article Two: Effect is Conditional on Payment of Fees

Payment of fees

56. A patent shall be in effect for the whole of the entire period set in section 52, if the patent holder paid the fee prescribed (hereafter: "renewal fee") with approval by the Knesset Finance Committee at the times prescribed as aforesaid; if the fee is not paid, then the effect of the patent shall lapse at the time prescribed for payment of the fee.

Extension of time for payment of fees

57. If a renewal fee was not paid at the time prescribed for its payment, then it may be paid within six months thereafter with the addition of a fee in a prescribed amount, and when that has been done the fee shall be deemed to have been paid at the time prescribed for its payment under section 56 and the patent shall be deemed not to have lapsed.

Publication of lapse of patent

58. If the period said in section 57 has passed and the fee has not been paid as said in that section, then the Registrar shall publish in Reshumot a notice that the effect of the patent has lapsed.

Reinstatement of patent lapsed for non-payment of fee

59. The owner of a patent which lapsed for non-payment of a renewal fee may apply to the Registrar, in the manner and form prescribed, that the patent be reinstated, on condition that he pay the special fee prescribed for that purpose when he submits the application (hereafter: reinstatement application).

Publication of application for reinstatement of patent

60. If the Registrar is satisfied that the renewal fee was not paid for reasonable cause, that the patent holder did not intend that the effect of the patent lapse, and that the application for restoration of the effect of the patent was submitted as soon as possible after the fact of nonpayment had become known to the patent holder or to the person

responsible on his behalf for payment of the fee, then he shall order publication of the application in Reshumot after the patent holder paid the renewal fee which had not been paid.

Opposition to reinstatement

61. Any person may oppose a reinstatement application within three months after the date of publication, on the grounds that the Registrar had no basis for ordering publication of the application in Reshumot.

Hearing of application for reinstatement

62. If no opposition was submitted or if opposition was submitted, but was rejected, then the Registrar shall make an order for reinstatement and he may make the reinstatement subject to conditions which he shall prescribe.

Use of invention the patent for which had lapsed and is subsequently reinstated

63. If a person began to exploit in Israel an invention on which the patent lapsed after the lapse of the patent was published under section 58, or if a person after that date made actual preparations for its exploitation, then he shall be entitled to continue to exploit the invention only for the requirements of his business, even after the patent is reinstated.

Transfer of right of exploitation

64. The right to exploit an invention under section 63 cannot be transferred, devolved or transmitted by inheritance, except together with the business in which that invention was used.

Article Two "A": Extension of Period of Protection

Definitions

64A. In this Article –

"medical preparation" – any form of therapeutic drugs that underwent processing, including a preparation for use in veterinary medicine and a preparation of nutritional value intended to be injected intravenously;

"material" – the active component of a medical preparation or salts, esters, hydrates or crystal forms of that component;

"the basic patent" – the patent that protects any material whatsoever, including a process for the production of a material, use of a material, a medical preparation that incorporates a material, a process for the production of a medical preparation that incorporates a material or medical equipment that requires a license in Israel (hereafter: medical equipment);

"recognized state" – a state enumerated in Schedule One;

"related patent" – any patent whatsoever in a recognized state, which protects the material, the process for the production of the material or the use of the material, or the medical preparation that incorporates the material, or the process for the production of the medical preparation that incorporates the material, or the medical equipment, which is claimed in a basic patent in Israel, whether or not the said patent parallels the Israel patent;

"licensing" – as defined in section 54A.

Extension of basic patent

64B. If the Registrar is satisfied that the conditions specified in this Article have been met, then he shall, by order, extend the term of the effect of a patent in accordance with the provisions of this Article (hereafter: extension order), on condition that –

- (1) the application for the extension order was submitted in good faith;
- (2) the extent of protection afforded by the extension order not be greater than the protection afforded by the basic patent.

Application for extension of basic patent

64C. (a) The holder of a basic patent and the holder of an exclusive license may apply for an extension order.

(b) In respect of a basic patent held in joint ownership each partner may apply for an extension order.

(c) If the owner of a patent, some of the partners or the holder of an exclusive license did not join the application for the grant of an extension order, then they shall be joined as respondents by the applicant.

(d) If a person was joined as respondent under this section and did not take part in the proceedings, then he shall not have to pay costs.

(e) As soon as possible after an application for an extension order was submitted, the Registrar shall publish a notice of the submission of the application in Reshumot; the notice shall include the applicant's name, the date of the application and the number of the basic patent, to which the requested extension order relates.

Conditions for grant of extension order

64D The Registrar shall not grant an extension order, unless the following conditions have been met:

(1) the material, the process for its production or its use, the medical preparation that incorporates the material or the process for its production, or the medical equipment was claimed in the basic patent and the basic patent remains in effect;

(2) in respect of a medical preparation – a medical preparation that incorporates the material is registered in the Register of Medical Preparations according to section 47A of the Pharmacists Ordinance [New Version] 5741-1981 (hereafter: the Pharmacists Ordinance);

(3) the registration said in paragraph (2) is the first registration that allows the material to be used in Israel for medical purposes;

(4) no extension order was granted previously in respect of the basic patent or in respect of the material;

(5) if a marketing permit was granted in the United States of America for a medical preparation said in paragraph (2) that is protected by a related patent or for medical equipment that is protected by a related patent – if the effect of the relative patent was extended in the United States of America in respect of the said medical preparation or medical equipment;

(6) if a marketing permit was granted in one or more of the states enumerated in Part Two of Schedule One for a medical preparation said in paragraph (2), which is protected by a related patent or for medical equipment that is protected by a related patent – if the effect of the relative patent was extended in one of the said states in which the marketing permit was granted in respect of the said medical preparation or medical equipment;

Notice of intention to grant extension order

64E. When an application for an extension order has been submitted in the manner prescribed in regulations by a person entitled to submit it, and if the Registrar concluded a priori that the conditions prescribed in this Article have been met, then he shall publish in Reshumot a notice that he intends to grant an extension order and during what period the order will remain in effect.

Opposition

64F. Any person has the right to oppose before the Registrar the grant of an extension order and the period during which the order will be in effect; opposition shall be by the delivery of a notice to the Registrar within three months after the day on which the notice under the provisions of section 64E was published.

Grounds for opposition

64G. Any reason, on the basis of which the Registrar has the power not to grant an extension order or to change the period of the effect of an extension order, as requested in the application for the order, is grounds for opposition to the issue of the order or to the period of its effect, as the case may be.

Grant of extension order

64H. (a) The Registrar shall grant an extension order if no opposition was submitted until the end of the time prescribed for its submission, and if opposition was submitted – according to these provisions:

(1) if opposition was submitted against the issue of the extension order – then the Registrar shall grant an extension order if the opposition was cancelled or finally rejected by the Registrar or by the Court;

(2) if opposition was submitted against the period of the effect of the extension order – then the Registrar shall grant an extension order after a final decision about the opposition was made by the Registrar or by the Court.

- (b) An extension order shall go into effect on the day of its publication as said in section 64E.
- (c) An extension order shall be registered in the Register.
- (d) If the Registrar granted an extension order, then the holder of the basic patent may – during the period in which the extension order is in effect – prevent any person from marketing or from producing in order to market without his permission the medical equipment or the medical preparation that incorporates the material, as far as the material, the process of its production, its use or the medical preparation or the process for its production were claimed in the claims for the basic patent.
- (e) If an extension order was violated in contravention of the provisions of subsection (d) (hereafter: extension order violation), then the holder of the basic patent or the holder of the exclusive license shall be entitled to all the remedies prescribed in section 183 and the provisions of Chapter Eleven shall apply to the violation of the extension order, mutatis mutandis as the case may be.
- (f) An extension order shall not give any rights whatsoever apart from the rights specified in this section.

Term of effect of extension order

- 64I. (a) An extension order shall be in effect, subject to the provisions of section 64J, during a period equal to the shortest extension period among the extension periods granted the related patent in recognized states.
- (b) If a license was applied for only in Israel, then the extension order shall be in effect for a period that is equal to the period from the day on which the application for a license was submitted and until the license was given; on condition that the application on the applicant's behalf was submitted and handled in good faith and with appropriate dispatch.

Limits on term

- 64J. Notwithstanding the provisions of section 64I –
- (1) the term of effect of an extension order shall not exceed five years beyond the term stated in section 52;
 - (2) the total of the term of the patent and of the term of the extension order, in the aggregate – for a material, for its production process, for its use, for the medical preparation that incorporates it, for the process of its production or for the medical equipment under the basic patent and under an extension order together – shall end not later than 14 years after the earliest date on which a license was received in one of the recognized states in respect of the medical preparation that incorporates the material or the medical equipment, as the case may be;
 - (3) the extension order shall lapse not later than the first date on which the extension period in respect of the related patent lapses in one of the recognized states.

Cancellation of extension order and change of the period of its effect

64K. The Registrar may, on application by a person who is not the holder of the basic patent or of an exclusive license, cancel an extension order or change the period of its

effect, if he concludes that there are grounds on which it is possible to oppose the grant of the extension order or the matter of the period of its effect; the Laws of prescription shall not apply to an application for cancellation under this section.

Application to cancel and change a period of effect in the course of legal proceedings

64K1. (a) If an application is submitted to cancel an extension order or to change the period of its effect while proceedings for a violation of the extension order are pending before the Court, then the Registrar shall hear it only if the Court so permits; when permission has been given, the Registrar shall decide the application after he has given all parties to that proceeding an opportunity to present their arguments to him.

(b) If proceedings for the violation of an extension order were initiated before a Court, after an application to cancel the extension order or to change the period of its effect was submitted to the Registrar, then the Registrar shall continue to hear the application, unless the Court ordered otherwise for this purpose.

Lapse of effect of extension order

64L. An extension order shall lapse in each of the following instances:

- (1) on the day on which the period said in section 64I ends, subject to the provisions of section 64J;
- (2) if the holder of the basic patent did not pay a fee under section 64M – at the end of the time for paying the said fee;
- (3) if registration of the medical preparation that incorporates the material was canceled – on the day on which the registration was canceled;
- (4) if the basic patent was canceled, or if it was amended so that the material, the production process, the use of the material, the medical preparation that incorporates the material or the process for its production, all of them together, or the medical equipment are no longer protected under the patent – from the day on which the cancellation or amendment went into effect.

Fees

64M. (a) The holder of a basic patent shall pay fees in respect of an extension order (hereafter: extension order fees) at times and in amounts to be prescribed in regulations; if the fee was not paid, then the order shall lapse at the time prescribed for paying the fee.

(b) The provisions of sections 57 to 64 shall apply to fees under subsection (a), with the term "extension order" replacing "patent" and the term "extension order fees" replacing "renewal fees".

64N. Repealed

Times

64O. (a) An application for the grant of an extension order shall be submitted in the prescribed manner, after the fee has been paid and not later than ninety days from the registration day of the medical preparation under the Pharmacists Regulations.

(b) The Registrar shall decide on the grant of an extension order and on the period of its effect no later than at the end of the basic patent's period of effect, and for that purpose he may shorten any time prescribed in or under this Article.

Publication

64P. The Registrar shall publish notice in Reshumot, concerning –

- (1) submission of an application for the grant of an extension order; as said in section 64C(e);
- (2) the grant of an extension order and the period of its effect;
- (2a) cancellation of an extension order or the change of the period of its effect;
- (3) the lapse of an extension order;
- (4) an extension of the time for the submission of an application for the grant of an extension order.

Change of Schedule One

64Q. The Minister of Justice may – with approval by the Knesset Constitution, Law and Justice Committee – change Schedule One by order, on condition that he not add a state that does not allow for the extension of the period of patent protection.

Article Three: Amendment of Patent

Right to Amend

65. A patent holder may apply to have the patent specification amended in order to clarify it, to eliminate a mistake in the specification or to restrict the claims.

Condition of amendment

66. The Registrar shall permit an amendment if he is satisfied that it will not result in a broadening of the scope of claims in the specification and will not add anything to the specification, which in essence was not included in it from the start; notice that permission for the amendment was granted shall be published in Reshumot.

Opposition to amendment

67. Any person may oppose before the Registrar the grant of permission to amend a specification; opposition shall be by delivery of a notice to the Registrar within three months after the notice of the grant of permission to amend was published.

Grounds for opposition

68. The following are the grounds for opposition to the grant of permission to amend:

- (1) there is a reason why the Registrar was entitled to refuse permission to amend;
- (2) the amendment does not achieve the purpose for which it was requested.

Correction of clerical error

69. (a) A patent holder may apply for the correction of a clerical error in the specification, and the Registrar shall permit the correction if he is satisfied that it only corrects a clerical error.
- (b) The Registrar may, at his own initiative and with the patent holder's consent, correct a clerical error which he found in the specification.

Application for amendment during legal proceedings

70. (a) If an application was submitted for the amendment of a patent while proceedings for an infringement or for the cancellation of that patent are pending before the Court, then the Registrar shall deal with the application only with permission by the Court.
- (b) If the permission is given, then the Registrar shall decide on the application after he has given all the parties to those proceedings an opportunity to bring their arguments before him.
- (c) If Court proceedings for infringement of a patent are instituted after an application for the amendment of the specification was submitted to the Registrar, then the Registrar shall continue to hear the application if the Court made no other order on that matter.

Registration of amendment

71. If no opposition to the amendment was submitted, or if it was submitted and was rejected by a decision of the Registrar or by final judgment, or if permission to amend the specification was given by the Court under section 190, then the Registrar shall enter the amendment in the Register, and from the date of the entry the amended specification shall be treated as if it had been accepted in that form from the outset.

Acceptance of amendment is conclusive evidence of its validity

72. The registration of the amendment is conclusive evidence that the amendment is permissible under section 66, unless it was obtained fraudulently.

Article Four: Cancellation or Revocation of Patent on Patent Holder's Application

Revocation or cancellation of patent on patent holder's application

73. (a) A patent holder may apply to the Registrar that he revoke or cancel a patent granted to him.
- (b) The Registrar shall – at the applicant's expense – publish in Reshumot the application to revoke or cancel a patent under this section.
- (c) If a person deems himself injured by an application to revoke or cancel a patent under this section, then he may – in a manner to be prescribed – submit to the Registrar opposition within three months after the application was published, and if the application was published more than once, then after the day of the last publication.

- (d) If no opposition was submitted under subsection (c), then the Registrar shall revoke or cancel the patent, all as the patent holder requested.
- (e) If opposition was submitted and it was cancelled, rejected or accepted in part by the Registrar in the decision that concluded the hearing before him, then the Registrar shall revoke or cancel the patent, unless an appeal was submitted against the Registrar's decision and notice as said in section 35 was given not later than the time prescribed under that section.
- (f) If an application for revocation or cancellation was submitted by the patent holder while proceedings on the patent are pending in Court, then the Registrar shall decide whether to revoke or cancel the patent; the provisions of subsections (a) to (e) shall also apply to an application under this subsection.
- (g) The Registrar shall publish in Reshumot notice of a patent's cancellation or revocation.

Effect of cancellation or revocation

- 73A. (a) If a patent was finally cancelled on the patent holder's application, then the Registrar shall enter the cancellation in the Register and the patent shall be treated as if it had never been granted.
- (b) If a patent was finally revoked on the patent holder's application, then the Registrar shall enter the revocation in the Register and the patent shall be treated as revoked on the day on which the application under section 73(a) was submitted.

Article Five: Cancellation of Patent on Application by Person Who is Not the Patent Holder Cancellation of patent on application by person who is not the patent holder

73B. The Registrar may, on application by any person who is not the patent holder, cancel a patent, if he found that there are grounds on which it was possible to oppose granting the patent; the Laws of prescription shall not apply on an application for cancellation under this section.

Proceedings before Registrar on application that is pending in Court

74. (a) If an application for revocation under Article Four, or an application for cancellation under Article Four or under this Article is submitted to the Registrar while Court proceedings for infringement or cancellation of that same patent are pending, then the Registrar shall hear it only with permission by the Court.
- (b) If permission is given, then the Registrar shall decide on the application after he has given all the parties to those proceedings an opportunity to state their arguments before him.
- (c) If Court proceedings for infringement of a patent were instituted after an application for its cancellation or an application for its revocation was submitted to the Registrar, then the Registrar shall continue to hear the application if the Court made no other order on that matter.

Effect and registration of cancellation order

75. (a) A cancellation order under this Article shall go into effect at the end of thirty days after the period for submitting appeal against it; however, if an appeal against it was submitted, then the Court may postpone its coming into effect, or it may set conditions for its coming into effect or for the postponement, as it deems proper.

(b) When a patent has been finally cancelled under this Article or under section 182, then the Registrar shall enter the fact of the cancellation in the Register, and the patent shall be treated as if it had not been granted.

CHAPTER FIVE: **OWNERSHIP OF PATENTS**

Presumption of ownership of invention

76. The person who submitted a patent application deemed the owner of the invention, as long as the contrary has not been proven.

Joint ownership

77. (a) An invention or patent may be in the joint ownership of several persons jointly.

(b) If an invention or patent has several owners, then they shall be deemed – for purposes of their mutual rights – owners of equal shares, unless a different apportionment is laid down by a written agreement between them or by virtue of Law.

Right of partner to a patent

78. Each of the partners in the ownership of a patent is entitled to exploit the invention that is the subject of the patent in a reasonable manner, unless there is a different provision in the written agreements between them or by virtue of Law; however, if a said exploitation prevents such exploitation by another partner, then the partners have the option of demanding from the exploiting partner appropriate royalties or their share of the profits derived by him.

Right of person who acquired from one partner to a patent

79. If a person in good faith acquires from one of the partners a product for which there is a jointly owned patent, or a product produced by a process protected by a said patent, then he shall be treated like a person who acquired the product from a sole patent holder; if person alleges that the acquisition was not in good faith, then he shall bear the burden of proof.

Transfer of ownership of jointly owned patent

80. Each of the partners to a patent may transfer ownership of his share without the consent of the other partners, unless the parties agreed otherwise between them and the fact of the agreement was entered in the Register.

Power of Court to issue directions to joint owners

81. (a) On application by some of the partners to a patent, the Court may order the other partners to perform certain acts for the exploitation of the patent or of any right therein, to grant a license for it, or on any other matter that concerns the patent, and the Court may authorize one of the applicants to perform the act in place of the respondents, all in accordance with the application and on such conditions as it may deem appropriate.

(b) An order shall not be made under this section –

(1) if it is prejudicial to the rights or obligations of a trustee in bankruptcy, receiver, liquidator, administrator or executor of a will;

(2) if it contradicts one of the conditions of a written agreement between the partners to the patent.

Transfer of inventions and patents

82. Rights in an invention or patent may be transferred in writing and may devolve by operation of law.

Validity of transfer vis-a-vis third party

83. The transfer of a patent by agreement is in effect only for the parties to the agreement, unless it was registered under this Law.

License to exploit

84. A patent holder may give an exclusive or nonexclusive written license to exploit the invention for which the patent was granted, and so may the owner of an invention for which a patent application was made.

Exclusive License

85. An exclusive license under a patent confers upon its holder the exclusive right to act in accordance with section 49, as if he were the patent holder, and it prohibits the patent holder from exploiting in Israel the invention which is the subject of the patent.

Non-exclusive license

86. A non-exclusive license under a patent confers the right to exploit the invention which is the subject of the patent, to the extent and on the conditions prescribed in the license.

Registration a condition of effectiveness

87. A license under a patent is in effect only for the parties to the agreement, unless it was registered under this Law.

License to exploit jointly owned patent

88. (a) A license to exploit a jointly owned patent shall only be granted with the consent of all the partners.

(b) This section shall not derogate from the power of the Court under section 81.

Charge on patent

89. A patent holder may, in writing, charge the patent or the income from it or both and – to the extent that this Law makes no other provisions on the subject – the Pledges Law 5727-1967 shall apply to the charge.

Registration a condition of effectiveness of charge

90. A charge on a patent shall have no effect with regard to any other creditor of the patent holder, or to a liquidator or trustee in bankruptcy of the patent holder, unless it was registered in the Register within 21 days after the day on which it is created, and it is subject to any other right in the patent granted before the charge was created and duly registered under this Law; however, if the patent is part of assets charged with a floating charge by the company or cooperative society that is the patent holder, the it is not necessary to register the floating charge under this section.

License to exploit charged patent

91. The grant of a license to exploit a patent subject to a charge, other than a floating charge, requires the written consent of the chargee.

Realization of charge

92. A charge on a patent may be realized by permission of the Court which may grant the chargee any relief it may deem proper, including the appointment of a receiver or an order to sell the patent.

Powers of receiver

93. A receiver may, with the Court's consent, sell the patent or give a license for its exploitation, and he may, subject to the Court's direction, collect the royalties or other payments to which the patent holder is entitled because he is the patent holder, no matter whether their due date was before the receiver was appointed or thereafter.

CHAPTER SIX:
POWERS OF THE STATE

Article One: Powers Required for National Defense

Restriction on Registrar's activities for national security

94. (a) The Minister of Defense may, by order, if he deems it necessary so to do in the interests of National security, including the protection of defense secrets, and after consultation with the Minister of Justice –

- (1) order the Registrar to refrain from performing any act which he is required or permitted to do under this Law on a certain application, or to postpone its performance;
- (2) prohibit or restrict the publication or release of information concerning a particular application, or in connection with the information in it.

(b) A copy of the order of the Minister of Defense shall be delivered to the applicant.

Transmission of certain applications to Minister of Defense

95. The Minister of Defense may direct the Registrar to transmit to a person he designated therefor a copy of applications of a certain category, and the Registrar may transmit to the Minister of Defense applications the matter of which appears to him to be relevant to National security or which includes a defense secret, all in order to enable the Minister to weigh whether an order under section 94 should be made in their respect; the Minister of Defense shall decide on every said application not later than four months after it was transmitted, and as long as he has not decided or as long as the said period has not expired, whichever is shorter, the Registrar shall not perform any act in respect of the said applications, except to acknowledge their submission under section 14.

Contestation of order that restricts activities

96. (a) The applicant may contest an order under section 94 before a three member contestations committee appointed by the Minister of Justice, the members of which shall include a judge of the Supreme Court – the chairman of the committee – and a person recommended by the Minister of Defense.

(b) Notice of the appointment and address of the committee shall be published in Reshumot.

(c) Submitting the objection shall not stay implementation of the order.

(d) The contestations committee may confirm, change or cancel the order.

Right to further contestation

97. An applicant has the right to contest an order under section 94 as long as the order is in effect, and he may contest it again even after a decision was made on the contestation, if – in his opinion – the circumstances that existed at the time of the decision have

changed; however, the committee may order the applicant to pay costs if, in its opinion, submitting a further contestation was not in place.

Restriction of right to submit patent applications abroad

98. An Israel national, a permanent resident of Israel or any other person who owes allegiance to the State shall not submit any application abroad for a patent for an invention the subject of which is weaponry or ammunition, or which is otherwise of military value, or for an invention with which section 95 deals, and he shall not – directly or indirectly – cause a said application to be submitted, unless one of the following applies:

- (1) he received written permission from the Minister of Defense in advance;
- (2) he submitted an application in respect of that invention in Israel and within six months after that application was submitted the Minister of Defense did not make an order on it under section 94, or he made such an order, but it is no longer in effect.

Article Two: Powers on Inventions that Relate to Nuclear Energy

Restriction on activities that relate to nuclear energy

99. (a) If the Minister finds that an invention for which a patent application was submitted is important for the development of the use of nuclear energy in Israel, or that the publication of an invention is liable to cause damage to nuclear research in Israel, then he may, by order after consultation with the Minister of Justice –

- (1) order the Registrar to refrain from performing any act which he is required or permitted to do under this Law on the application, or to postpone its performance;
- (2) prohibit or restrict the publication or release of information concerning the application, or in connection with the information in it.

(b) A copy of the order of the Minister of Defense shall be delivered to the applicant.

Transmission of certain applications

100. The Minister may direct the Registrar to transmit to a person he designated therefor a copy of applications of a certain category, and the Registrar may transmit to the Minister applications in respect of which the Registrar thinks an order under section 99 would be proper, all in order to enable the Minister to weigh whether a said order should be made; the Minister shall decide on every said application not later than four months after it was transmitted, and as long as he has not decided or as long as the said period has not expired, whichever is shorter, the Registrar shall not perform any act in respect of the said applications, except to acknowledge their submission under section 14.

Contestation of order that restricts activities

101. (a) The applicant may contest an order under section 99 before a three member contestations committee appointed by the Minister of Justice, the members of which

shall include a judge of the Supreme Court – the chairman of the committee – and a person recommended by the Prime Minister.

(b) Notice of the appointment and address of the committee shall be published in Reshumot.

(c) Submitting the objection shall not stay implementation of the order.

(d) The contestations committee may confirm, change or cancel the order.

Right to further contestation

102. An applicant has the right to contest an order under section 99 as long as the order is in effect, and he may contest it again even after a decision was made on the contestation, if – in his opinion – the circumstances that existed at the time of the decision have changed; however, the committee may order the applicant to pay costs if, in its opinion, submitting a further contestation was not in place.

Right of further contestation

102. The applicant has the right to contest an order under section 99 as long as the order is in effect, and he may contest it again after a decision was given on a contestation, if he believes that the conditions which existed at the time of the decision have changed; however, the committee may order the applicant to pay costs if, in its opinion, there was no occasion for making a further contestation.

Restriction of right to submit patent application abroad

103. An Israel national, a permanent resident of Israel or any other person who owes allegiance to the State shall not submit any application abroad for a patent for an invention with which section 100 deals, and he shall not – directly or indirectly – cause a said application to be submitted, unless one of the following applies:

(1) he received written permission from the Minister in advance;

(2) he submitted an application in respect of that invention in Israel and within six months after that application was submitted the Minister did not make an order on it under section 99, or he made such an order, but it is no longer in effect.

Article Three: Use of Inventions in the Interest of the State

Right of State to exploit invention

104. The Minister may permit the exploitation of an invention by Government departments or by an enterprise or agency of the State, whether a patent for it has or has not already been granted or has or has not already been applied for, if he finds that that is necessary in the interests of the National security or of the maintenance of essential supplies and services.

Right of State to permit exploitation of invention

105. The Minister may, if he finds that that is necessary for the purposes enumerated in section 104, grant a permit under that section to a person who operates under contract with the State, in order to ensure or facilitate the implementation of that contract and for the requirements of the State only.

Notice of Grant of exploitation permit

106. When a permit has been granted under this Article, the Minister shall notify the owner of the invention or the patent holder and the holder of the exclusive license that the permit was granted and the scope of the permitted use, unless National security requires otherwise.

Article Four: Obligation of the State to Pay Compensation and Royalties

Compensation for restriction of activities

107. If an order was made under section 94 or 99 or if a permit was not granted under section 98 or 103, then the Treasury shall pay to the owner of the invention compensation at the rate set by agreement between the parties or – in the absence of agreement – by the compensation and royalties committee established under section 109.

Royalties for use of patents by the State

108. If a permit was granted under sections 104 or 105, then the State Treasury shall pay to the owner of the invention, to the patent holder or to the holder of an exclusive license, as the case may be, royalties set by agreement between the parties or – in the absence of agreement – set by the compensation and royalties committee.

Compensation and royalties committee

109. The Minister of Justice shall appoint a committee on compensation and royalties, which shall decide on claims for compensation and royalties under this Article; the members of the committee shall be a Justice of the Supreme Court, the Registrar and an additional member from among the teachers at an institution of higher education, within its meaning in the Council for Higher Education Law 5718-1958.

Guidelines for determination of royalties

110. When it is about to determine royalties, the committee shall also consider the scope and character of the permitted exploitation, and it may take into account royalties stipulated in licenses, the conditions of which are similar to those of the permit.

Exclusive jurisdiction of committee

111. No Court or tribunal shall consider any matter within the jurisdiction of the compensation and royalties committee, and every decision by the committee shall be final.

Article Five: General Provisions

Definition

112. In this Chapter, "**Minister**" – the Minister designated by the Government.

Rules of procedure of committees

113. A contestations committee, as said in sections 96 or 101 and the compensation and royalties committee (hereafter in this Article: "committees") shall each prescribe its own rules of procedure, as far as those were not prescribed by or under this Law.

Proceedings not public

114. Proceedings before the committees shall not be open to the public unless the committee so ordered for a particular matter, and no person shall publish anything about proceedings in camera, except with the committee's permission.

Powers of committees

115. (a) The committee shall have power –

- (1) to obtain any written or oral evidence which they deem necessary;
- (2) to summon any person to appear before them to give evidence or to produce any document in his possession, to interrogate him and to demand from him any document in his possession;
- (3) to compel the attendance of any person who did not comply with a summons and did not justify that to their satisfaction, order him to pay all costs caused by his non-compliance or by compelling his attendance, and fine him an amount of money of not more than IL 75;
- (4) to obligate any witness to give evidence on oath or affirmation in the manner customary in Court;
- (5) to fine an amount of money of not more than IL 75 any person who was called to give evidence on oath or affirmation or to produce a document and who refused to do so without reasonable justification, on condition that no person shall be required to answer a question, if by answering it he might incriminate himself, and he shall not be fined for refusing to answer it;
- (6) to admit any written or oral evidence, even if it would not be admissible in a civil or criminal trial;
- (7) to award to a person summoned to attend a session of the committee an amount of money which, in the opinion of the committee, he spent in consequence of his attendance.

(b) The compensation and royalties committee may order that the amount of compensation or royalties not in dispute be paid, wholly or in part, before it makes its final decision.

CHAPTER SEVEN:
RESTRICTION OR CANCELLATION OF PATENT HOLDER'S RIGHTS IN
THE PUBLIC INTEREST

Article One: Compulsory Licenses

Definitions

116. In this Article –

"patented product" – a product for which, or for the production process of which a patent was granted;

"patent holder" includes the holder of an exclusive license under the patent.

Power to grant compulsory license

117. (a) If the Registrar is satisfied that a patent holder abuses his monopoly, then he may grant a license to exploit the invention that is the subject of the patent to a person who applied therefor in the prescribed manner and paid the prescribed fee.

(b) The Registrar shall not entertain an application under this section, unless it was submitted later than three years after the date on which the patent was granted or four years after the date on which the patent application was submitted, whichever is later.

Power to require notification concerning exploitation of patent

118. (a) At the end of the time said in section 117, the Registrar may demand that a patent holder notify him in writing, within sixty days of the date of the demand, whether he exploits the patented invention in Israel by way of production or of importation, and if so, what is the extent of the production or of the importation and the location of the production area.

(b) The Registrar shall demand the notification under this section if he was requested to do so by use of the prescribed form and if the prescribed fee was paid.

(c) If the patent holder does not respond to the demand within 60 days after the date of the demand or within an additional period prescribed by the Registrar, then that shall be deemed an admission on the part of the patent holder that he abuses the monopoly conferred on him by the patent for the invention, in respect of which the notice was sent..

Abuse of monopoly defined

119. The exercise of a monopoly conferred by a patent shall be deemed abusive, if one of the following circumstances exists in respect of the invention, the product or the

process which is the subject of the patent, and if the patent holder did not provide a reasonable justification for its existence:

- (1) all the demand for the product is not satisfied in Israel on reasonable terms;
 - (2) the conditions attached by the patent holder to the supply of the product or to the grant of a license for its production or use are not fair under the circumstances of the case, do not take account of the public interest and arise essentially out of the existence of the patent;
 - (3) repealed
 - (4) repealed
 - (5) repealed
120. Repealed

Compulsory license to exploit earlier patent on which the fate of a later patent depends

121. (a) If a patented invention (hereafter: later invention) cannot be exploited without infringing an invention, for which the patent application date was earlier (hereafter: earlier invention), then the Registrar may, if so requested by the patent holder of the later invention, grant him a license to exploit the earlier invention to the extent necessary for the exploitation of the later invention, on condition that the later invention incorporates an important technological innovation over the earlier invention, which is of great economic importance.

(b) If the earlier and the later invention serve the same purpose, then a license under subsection (a) shall be granted on condition that the owner of the later invention grant a similar license to the owner of the earlier invention if he so requests.

(c) In the case of a patent application for which priority was claimed under section 10(a), the date of the previous application, within the meaning of section 10(a), shall be deemed the patent application date for purposes of this section.

(d) A license given to the owner of a later invention under the provisions of subsection (a) is not transferable, unless the rights to the later invention are transferred together with the license.

Factors to be taken into account in granting compulsory license

122. In dealing with an application for a license under section 117, the Registrar shall also take the following factors into account:

- (1) the applicant's ability to remedy the fault, because of which the license was applied for;
- (2) the public interest, which generally requires that inventions that can be exploited in Israel by way of production or by way of import should be so exploited to the greatest extent possible under existing circumstances and without delay;
- (3) the right to reasonable remuneration, taking the nature of the invention into account, for exploitation of the patented invention;
- (4) protection of the rights of any person who exploits in Israel, by way of production or by way of import, the invention to which the application for the license relates and of persons engaged in developing that invention;

(5) the nature of the invention, the time elapsed since the patent was granted, and the steps taken by the patent holder or by his representative for the exploitation of the invention in Israel by way of production or by way of import.

Restriction of scope of compulsory license

123. A license under this Chapter shall be granted mainly for the requirements of the local market.

Invitation to join proceedings on application for compulsory license

124. (a) As soon as possible after an application for a license under this Chapter was submitted, the Registrar shall – at the applicant's expense – publish a notice in Reshumot that the application was submitted, and in it he shall invite all persons with an interest in the application or likely to be adversely affected by the grant of the license to join the proceedings.

(b) If a person wishes to join the proceeding, then he shall give notice thereof in the prescribed manner and at the prescribed time, and he shall pay the prescribed fee, and when he has done so he shall be deemed an applicant or a respondent in the proceeding, as the case may be.

(c) This section shall add to and not derogate from the provision of section 159.

Effect of compulsory license

125. A compulsory license under this Chapter shall go into effect thirty days after the day of the Registrar's decision or on a later date prescribed by the Registrar; if an appeal was submitted against the decision, then the Court may delay its going into effect or it may attach conditions to its going into effect or to its delay.

Conditions of license

126. A license under this Chapter shall be a non-exclusive license, and the Registrar shall prescribe its conditions when he grants it, including the royalties or other consideration which the licensee shall pay to the patent holder, all as is reasonable and appropriate in the circumstances of the case and having taken the patent holder's legitimate interests into account, and the Registrar shall also prescribe –

(1) circumstances under which the license shall be deemed void or shall be cancelled or its conditions shall be changed;

(2) having taken into account, inter alia, the economic value of the license and the patent, the ways of determining the amount of the royalties or of the other consideration, when and how they shall be paid;

(3) the ways of marking the product produced under the license.

Forced transfer of license

126A. A license granted under this Chapter is not transferable, unless the part of the business or of the good will connected to the use of the patent is transferred together with the license.

Review

127. The owner of a patent for which a license was granted under this Chapter may apply to the Registrar in the prescribed form and manner for a review of the license granted, because the circumstances which existed when the license was granted have changed or because the licensee violated one of its conditions, and the Registrar may cancel the license or change its conditions, if he is satisfied that it is right so to do.

Compulsory license to be treated like a license by agreement

128. A license under this Chapter and its conditions shall be treated like a license granted under an agreement between the patent holder and any other person who may be a party to the agreement, and the licensee.

Article Two: Cancellation of Patents in the Public Interest

Power of Registrar to cancel patents

129. (a) The Registrar may cancel a patent for which a license was granted under this Chapter, if he is satisfied that granting the license did not suffice to prevent the abuse of the monopoly which was the ground for granting the license.

(b) The Registrar shall not entertain an application under this section, unless it was submitted by a person qualified to receive the license and unless two years have passed since the day on which a license under this Chapter was first granted in respect of that patent.

Effect of cancellation order

130. Cancellation of a patent under section 129 shall go into effect 60 days after the date of the Registrar's decision, or on a later date prescribed by the Registrar; if an appeal was submitted against the cancellation, then the Court may delay its going into effect or it may attach conditions to its going into effect or to its delay.

CHAPTER EIGHT: **SERVICE INVENTIONS**

Notification of inventions

131. An employee must notify his employer of any invention which he made in consequence of his service or during the period of his service, as soon as possible after he invented it, and also of any patent application submitted by him.

Inventions in consequence of service

132. (a) An invention by an employee, arrived at in consequence of his service and during the period of his service (hereafter: service invention) shall, in the absence of an agreement to the contrary between him and his employer, become the employer's property, unless the employer relinquishes the invention within six months after the day on which notification under section 131 was delivered to him.

(b) If, in his notification under section 131, the employee stated that – in the absence of a contrary reply from the employer within six months after delivery of the employee's notification – the invention will become the employee's property, and if the employer made no contrary aforesaid reply, then the invention shall not become the employer's property.

Decision on service invention

133. If a dispute arose on the question whether a certain invention is a service invention, then the employee or the employer may apply to the Registrar that he decide the question.

Remuneration for service invention

134. If there is no agreement that prescribes whether, to what extent and on what conditions the employee is entitled to remuneration for a service invention, then the matter shall be decided by the compensation and royalties committee established under Chapter Six.

Directives for determination of remuneration

135. In making a decision under section 134, the compensation and royalties committee shall also take into account the following factors:

- (1) the capacity in which the employee was employed;
- (2) the nature of the connection between the invention and the employee's work;
- (3) the employee's initiative in making the invention;
- (4) the possibilities of exploiting the invention and its actual exploitation;
- (5) expenses reasonable under the circumstances incurred by the employee in order to secure protection for the invention in Israel.

Reconsideration

136. The compensation and royalties committee is competent to reconsider a decision under section 134 if, in its opinion, the circumstances which existed at the time of the decision have changed and if it was requested to reconsider it; however, the committee may order the applicant to pay costs if, in its opinion, the application was not in place.

Obligation of State employee to give notice of invention

137. If a State employee, soldier, policeman or employee of a State enterprise or institution designated by the Minister of Justice by order, or if another person who receives his pay from the State or from any of those enterprises or institutions, made an invention during the period of his service or within six months after the end of the period of his service within the scope of his functions or within the scope of work of the unit in which he was employed, then give notice to the State Service Commissioner (hereafter: Service Commissioner) or to another public servant, as prescribed; a said notice shall be delivered as soon as possible after the invention was made, but not later than the date on which the inventor proposes to submit a patent application for it, and in the manner prescribed in consultation with the Minister of Finance.

State employee forbidden to submit application abroad

138. A person who must give notice under section 137 shall not submit abroad an application for a patent or for other protection for his invention, unless one of the following applies:

- (1) he received permission therefor in advance from the Service Commissioner or from another public servant authorized for that purpose;
- (2) it was not decided – by six months after the day on which he gave notice of his invention under section 137 – that his rights in the invention passed, in whole or in part, under section 132 or by agreement, to the State enterprise or State institution where he worked.

Obligation to disclose particulars

139. If a person gave notice under this Chapter or if he was under obligation to give said notice, then he must disclose to his employer, at any time, all the particulars of the invention and any further particular of importance to the subject of sections 132, 135 or 140.

Obligation to help obtain protection for service invention

140. If a person made a service invention and if the ownership of it passed, in whole or in part, to his employer under section 132 or by agreement, then he must do everything required of him by the employer in order to obtain protection for the invention to the employer's benefit in any place whatsoever, and he must sign any document required therefor; if he does not do so, then the Registrar may permit the employer to do so after he has given the employee an opportunity to state his arguments.

Obligation of secrecy

141. As long as no patent application has been submitted for a service invention, the employee, the employer and any person to whom the matter was confided shall not disclose particulars of the invention.

CHAPTER NINE: **PATENT ATTORNEYS**

Eligibility for registration in the Register of Patent Attorneys

142. (a) If a person meets the following requirements, then he is entitled to be registered in the Register of Patent Attorneys and to receive a patent attorney's license:

- (1) he is an Israel resident;
 - (2) one of the following holds true for him:
 - (a) he is registered as an engineer in the Register of Engineers and Architects under the Engineers and Architects Law 5718-1958;
 - (b) he graduated from an institution of higher education, within its meaning in the Council for Higher Education Law 5718-1958, in one of the professions specified in Schedule Two;
 - (c) he graduated abroad, at an institution of higher education or a higher technological institute approved for the present purpose by the Minister of Justice after consultation with the Council for Higher Education, in one of the professions specified in Schedule Two;
 - (3) he has passed the examinations said in section 143 or was exempted from them;
 - (4) he performed qualifying service in Israel during not less than two years in the office of a patent attorney who practices his profession for at least three years, at the Patent Office or in the patent department of an industrial enterprise;
 - (5) he paid the prescribed fee.
- (b) The Minister of Justice may, with the approval by the Knesset Constitution, Law and Justice Committee, add to the fields of specialization enumerated in Schedule Two.

Examination

143. (a) If a person wishes to be registered in the Register of Patent Attorneys, then he must pass an examination in the prescribed manner in order to prove that he has an appropriate knowledge of the Law of patents, designs and trade marks of Israel and in foreign countries and of other relevant enactments, all as prescribed, and that he has command of the Hebrew language and of at least one other language required for his work, as prescribed.

(b) The examination shall be conducted by two or three examiners, among them not more than one patent attorney, and in each case they shall be selected by the Minister of Justice – or by a person appointed by him for that purpose – from a panel of examiners determined by the Minister.

(c) The Minister of Justice may exempt categories of candidates from the examination if it can be proved in some other prescribed manner that they possess the knowledge required in an examination under subsection (a).

Shortening period of qualifying service

144. The Minister of Justice may prescribe that categories of candidates be exempt from all or some of the obligation of qualifying service under section 142(4).

Payment of fee – a condition for registration

145. If a person was registered in the Register of Patent Attorneys, then he shall be given a patent attorney's license and shall be registered in that Register as long as he pays the prescribed fee at the prescribed times.

Disciplinary committee

146. The Minister of Justice shall appoint, in general or for a particular case, a disciplinary committee of three members, including a person qualified to be a judge, who shall be the committee chairman, and two other members, of whom at least one shall be a patent attorney.

Submitting of Complaint

147. (a) Any person may submit a complaint against a patent attorney to the disciplinary committee.

(b) If the Minister of Justice did not appoint a general disciplinary committee, then the complaint shall be submitted to the Minister of Justice, and he shall appoint a committee under section 146 and refer the complaint to it.

Disciplinary offenses and their penalties

148. (a) If the disciplinary committee finds that a patent attorney –

- (1) was convicted of a criminal offense that involves dishonor;
- (2) permitted his name as a patent attorney to be used for the benefit of a person who is not a patent attorney;
- (3) displayed inability, irresponsibility or negligence in the performance of his tasks as a patent attorney;
- (4) acted unfairly in his professional work or in a manner inappropriate to the profession of a patent attorney;
- (5) violated one of the rules of professional ethics;

then the committee shall adopt one or more of the following measures against him:

- ☐ a warning,
- ☐ a reprimand,
- ☐ a fine as said in section 61(a)(1) of the Penal Law 5737-1977;
- ☐ the prohibition to work as a patent attorney during a period of not more than five years;

□ removal of his name from the Register.

(b) The disciplinary committee's decision shall be in writing, and it shall be delivered to the complainant and to the patent attorney in a matter which it shall prescribe.

Appeal

149. A patent attorney may – within 30 days after he was served notice of the decision – appeal before the District Court against the disciplinary committee's decision to impose punishment on him as said in section 148, including the decision to make its decision public, and the person who submitted a complaint against a patent attorney under this Chapter may appeal as aforesaid against a disciplinary committee decision or against its dismissal of his complaint.

Rules of procedure of disciplinary committee

150. A disciplinary committee shall try a patent attorney or take evidence only in his presence, after he was summoned to appear before it and after he was informed of the complaint; before the decision is given, he shall be given an opportunity to have his say; if the patent attorney does not appear before the committee after he was summoned a second time, then the committee may try him, take evidence and hear the matter in his absence and it may give its decision without he having had his say.

Powers of disciplinary committee

151. A disciplinary committee has all the powers of a committee under section 115(a).

Implementation

152. (a) The Registrar shall enter in the Register the disciplinary punishment, which the disciplinary committee decided to adopt against the patent attorney.

(b) The Registrar shall not implement the decision of the disciplinary committee as long as the period of appeal under section 149 has not passed; if an appeal was submitted, then the Registrar shall not implement the decision until the District Court has made its judgment.

(c) The entry in the Register under this section shall be published in Reshumot, if the committee so decided.

Saving of laws

153. The conviction or acquittal of a person in disciplinary proceedings under this Chapter shall not derogate from any power to bring criminal proceedings or other disciplinary proceedings against a person because of the grounds that were the basis for a disciplinary proceeding under this Law.

Rights of patent attorneys

154. (a) Patent attorneys have the exclusive right to deal in Israel, for remuneration, with applications for patents, designs and trade marks and with the preparation of any document to be submitted to the Registrar, the Office or to an authority for the protection of industrial property in another country, to represent the parties and to handle and represent in any proceeding before the Registrar or in the Office.

(b) This section does not derogate from the right of an advocate or of a State employee to perform the said acts within the scope of his functions.

Right of representation in Court

155. A patent attorney shall, by the Court's permission, have the right to plead in Court on behalf of a party to proceedings under this Law on any matter that relates to an invention or a patent and is not a point of Law, on condition that the advocate of that party is present at the time.

CHAPTER TEN: **OFFICE AND REGISTRAR**

Patent Office

156. An office shall be established and called the Patent Office, and it shall, through the Registrar, the examiners and its other personnel perform the activities assigned to it by this Law and also –

- (1) give information to the public about patents that were granted;
- (2) maintain a library and a publication service on patents;
- (3) maintain contact with international organizations that deal with the protection of industrial property;
- (4) maintain contact with institutions in Israel and abroad, on condition that any contract signed with a said institution be in compliance with the provisions of all enactments, and that a contract under section 18 include a section with wording approved by the Registrar on maintaining secrecy about all patent applications and non-revelation of information.

Registrar

157. (a) The Office shall be headed by the Registrar of Patents, who shall be appointed by the Minister of Justice.

(b) The Registrar shall be a person qualified to be a judge of a District Court.

(c) In the performance of his judicial functions under this Law the Registrar shall be subject to no authority other than that of the Law.

Deputy Registrar

158. (a) The Minister of Justice may appoint a Deputy Registrar.
- (b) The Deputy Registrar shall be a person qualified to be a judge of a District Court or who was registered during at least five years in the Register of Patent Attorneys.
- (c) A Deputy Registrar may carry out any function assigned to the Registrar by this Law, except for functions and powers under section 109 and under Chapter Seven; the Deputy Registrar shall perform his functions according to the provisions of this Law and – for the exercise of his functions – the powers vested in the Registrar by this Law are vested in him.
- (d) Any act validly performed by a Deputy Registrar shall, for the purposes of this Law, have the effect of an act performed by the Registrar.

Exercise of power by the Registrar

159. The Registrar shall exercise a power conferred on him by this Law after giving any person who in the Registrar's opinion is liable to be adversely affected by his decision an opportunity to present his arguments before him.

Decisions by Registrar to be in writing

160. Decisions by the Registrar shall be in writing and shall be delivered in the prescribed manner to every person who was a party to the proceedings in which the decision was made.

Objection to acts of examiner

161. It is permissible to object to any decision or act of an examiner and to request that the matter be brought before the Registrar.

Proceedings in contested case

162. (a) In any contested case brought before the Registrar under this Law, the Registrar shall give the parties an opportunity to produce their evidence and to present their arguments in writing and orally in the prescribed manner and form and at the prescribed time.
- (b) The Registrar may order the payment of reasonable costs and he may direct which of the parties shall pay the costs and how they shall be paid.
- (c) An order under subsection (b) may be executed, as if it were a Court judgment.

Evidence before the Registrar

163. (a) Subject to any provision in this Law or in regulations under it, evidence shall be given before the Registrar by written affidavit and the Registrar shall permit the person who made the affidavit to be cross-examined., if he was requested to do so and if he sees no reasonable cause why he should not permit it.

(b) In taking oral testimony, the Registrar shall have all the powers of a Court on the swearing of witnesses, the acceptance of declarations from them and compelling witnesses to attend, and on other matters connected thereto and to the giving of testimony.

Extension of time

164. (a) The Registrar may, if he sees reasonable cause for doing so, extend any time prescribed by this Law or by regulations under it for the performance of anything at the Office or before the Registrar, except for the times prescribed in sections 30, 56, 57, 61, 64F, 64M; however, for purposes of section 10 –

(1) the Registrar shall not extend the time prescribed by subsection (a)(1), unless he is satisfied that the application in Israel was not submitted on time because of circumstances over which the applicant and his representative had no control and which could not be prevented;

(2) the Registrar shall extend the time prescribed by subsection (a)(2) only as long as the application has not yet been accepted and if he is satisfied that a mistake was made innocently.

(a1) Notwithstanding the provisions of subsection (a), the Registrar shall extend the time said in section 64O only if he is satisfied that – at the time the applicant for the extension order should have submitted the application for the extension order – he was not able to do so, because of reasons over which the applicant and his representative had no control and which could not have been prevented.

(b) The Registrar may make the extension of times conditional on conditions as he deems fit.

(c) An application for extension of a time may be submitted within the time or after it.

(d) Notwithstanding the provisions of subsections (a) and (b) and the provisions of any other Law, if the last day of the period prescribed in section 10(a)(1) falls on a day that is not a work day, then the period shall end on the first work day thereafter; this provisions does not derogate from the power to extend beyond the time prescribed in section 10(a)(1).

Confidentiality of documents of Office

165. (a) The Registrar and every other employee of the Office, and also every other person to whom information was given by virtue of section 18(a)(1), 95, 96, 100, 101 or 109, shall keep every patent application confidential, as long as it has not been published under section 26, and that when there is no other provision in this Law.

(a1) The provisions of subsection (a) shall not apply to –

(1) particulars made public under section 16;

(2) refusal by the Registrar under section 21;

(3) the fact that an application was cancelled by the applicant under section 21B.

(b) A person shall not disclose any information which reached him in the implementation of this Law and which is not open to public inspection, except when that is necessary in order to comply with provisions of this Law or in order to bring a criminal action under it.

Register of Patents

166. (a) A Register of Patents shall be kept at the Office, and in it shall be entered the matters prescribed in this Law and additional particulars which have been prescribed or which the Registrar thinks should be entered.

(b) If, in a proceeding under this Law, a person gave his address to the Office, then that address shall be his address for the service of notices and documents on any matter under this Law.

Documents of the Office

167. All documents held by the Office and relating to the examination of a patent application by the Office, to the validity of or to rights in a patent or to any other matter that may affect the validity of a patent or of rights in it – except internal correspondence between members of the Office and other documents for which regulations make other provisions – shall be retained at the Office during at least seven years after the day on which the effect of the patent expired.

Inspection by public and receipt of certified extracts

168. (a) The Register and the documents that must be kept under section 167 shall be open for inspection by the public; however, documents that relate to a patent application not yet published under section 26 shall not be open for inspection.

(b) Every person shall be entitled to receive an extract certified by the seal of the Office of anything in the Register or in any document open for inspection under this section, if he applied therefor in the prescribed manner and paid the prescribed fee.

Registration of transfer of rights

169. (a) The transferee of rights in a patent or in an invention for which a patent application was submitted may apply to the Registrar for registration as owner of those rights, and if the transfer was proved to the Registrar's satisfaction and the prescribed fee was paid, then the transfer of the rights shall be entered in the Register or in the application file.

(b) The Minister of Justice may prescribe ways for service of judgments that prescribe a transfer of rights in a patent or in an invention for which a patent application was submitted; if the Minister has so prescribed and if a judgment was served on the Registrar in the said manner, then, notwithstanding the provisions of subsection (a), the Registrar shall enter the transfer prescribed by the judgment.

Correction of entries and documents

170. (a) On application by an interested person, to be submitted in the prescribed manner and form, the Registrar may correct an entry in the Register and in every document issued by him or submitted to the Office if, in his opinion, the Register or document does not reflect the facts, and that when no other way of making the correction is provided by this Law.

(b) The Registrar shall give notice in Reshumot of an application for correction under this section; however, if application was made to correct a patent application or to correct a document related to it, then he shall publish notice of the application only after the notice under section 26 that the patent application was accepted.

(c) Every person may submit opposition to an application for correction within three months after the application for correction was made public under subsection (b).

(d) Law procedure on an opposition under this section shall be like law procedure on an opposition under section 30.

Correction of clerical error

171. The Registrar may, if requested to do so in the prescribed form and manner, correct a clerical error in the Register or in a document issued by him or by the Office.

Correction on the Registrar's initiative

172. The Registrar may also make a correction under sections 170 and 171 on his own initiative, after he has given every person who in his opinion is liable to be adversely affected by the correction an opportunity to state his arguments.

Assignment of judicial functions and the assumption of authority

172A. (a) The Minister may assign a state employee, who is an advocate qualified to be a District Judge, to perform a judicial function that the Registrar must perform, or which the Registrar is competent or allowed to perform under the provisions of this Law, except under section 109 and Chapter Seven, on condition that – for purposes of a determination or a decision whether a patent is qualified for registration or whether a patent is not qualified for registration, also by way of opposition – a judicial function be assigned to an intellectual property adjudicator only after the application to register a patent was examined by an examiner; for this purpose, the fact that the patent application relates to a patent that was registered or for which an application to register a patent was submitted in a country abroad shall not constitute sufficient authority for an examination of the application.

(b) If a function said in subsection (a) was assigned to an intellectual property adjudicator, then he shall perform the function under the provisions of this Law and – for the performance of his function – the Registrar's powers under this Law shall be vested in him.

(c) Any act lawfully performed by an intellectual property adjudicator, to whom a function said in subparagraph (a) was assigned, shall – for the purposes of this Law – be treated like an act performed by the Registrar.

Restriction on admission of documents that attest rights in patent

173. (a) No document or deed, in which a patent, an invention for which a patent application was submitted or an interest in a said invention or in a patent is transferred, shall be admitted in Court as evidence of title to the invention, patent or interest, unless it was registered under section 169 or unless the Court sees a reason for admitting it.
(b) Notwithstanding the provision of subsection (a), aforesaid documents shall be admitted as evidence in any proceeding on a correction of the Register under section 170.

Right of Appeal

174. (a) If a person deems himself injured by a decision of the Registrar in conclusion of hearings in a proceeding before him under this Law, including a decision not to hear him under section 159, then he may appeal against it before the Court within the prescribed time.
(b) If a person deems himself injured by any other decision of the Registrar under this Law, then he may appeal against it before the Court after he was given permission to do so by the Court or by the Registrar.
For purposes of this section, "**other decision**" – any other decision that does not conclude hearings in a proceeding held before the Registrar.

Respondents in the appeal

175. Every person who was a party to the proceedings before the Registrar, other than the appellant, shall be the respondent; if there is no other party, then the Registrar shall be the respondent.

Hearing in camera

176. An appeal against a decision of the Registrar who refuses to accept a patent application before publication under section 26 shall be heard in camera, unless the Court ordered otherwise on the appellant's application.

Evidence in appeal

177. The Court that hears the appeal may take evidence, including evidence already taken by the Registrar and also other evidence, and it may demand that that evidence be brought by affidavit or in another manner which it deems appropriate; if evidence is brought by affidavit, then section 163(a) shall apply, mutatis mutandis.

CHAPTER ELEVEN: **PATENT INFRINGEMENT**

Action for infringement

178. (a) Only the patent holder or an exclusive licensee are entitled to bring action for infringement.

(b) In the case of a jointly owned patent, each partner may bring action for infringement.

(c) If the patent holder or some of the partners to the patent or the exclusive licensee did not join the action for infringement as plaintiffs, then they shall be joined by the plaintiff as defendants.

(d) If a person was joined as a defendant under this section, but did not take part in the proceedings, then he shall not be required to pay costs.

Time for submitting action for infringement

179. Action for infringement shall be brought only after the patent was granted; however, if action for infringement was brought, then the Court may grant relief for an infringement committed after the date of publication under section 26.

Exploitation of forfeited product

180. The exploitation of a patented product which was validly forfeited to the State shall not constitute infringement.

Use of patents in foreign vessels, aircraft and vehicles

181. The following shall not be deemed infringements:

(1) the use of an invention patented in Israel in the body of a vessel registered in a Member State other than Israel, in its machinery, tackle, apparatus or other accessories, when the vessel is temporarily or incidentally in Israel territorial waters, on condition that the exploitation is exclusively for the needs of the vessel;

(2) the use of an invention patented in Israel in the construction or operation of an aircraft or land vehicle registered in a Member State other than Israel, or of the accessories of such an aircraft or land vehicle, when they are temporarily or incidentally in Israel.

Defense for infringement

182. (a) Any grounds, on which the grant of a patent may be opposed, shall be a good defense in an action for infringement; if the Court accepted the defense, then it shall order the patent to be cancelled in whole or in part, as the case may be.

(a1) Grounds, on which it is possible to oppose the grant of an extension order, shall be a good defense in a suit for the violation of an extension order; if the Court accepted the defense, then it shall order the extension order to be cancelled.

(a2) Grounds on which the period of effect of an extension order can be shortened shall be a good defense in a suit for the infringement of an extension order, which was during the period of abbreviation; if the Court accepted the defense, then it shall order the period of effect of the extension order to be shortened; for this matter, " **period of abbreviation**" – the period by which the period of effect of an extension order is to be shortened in accordance with the grounds for its abbreviation.

(b) The Laws of prescription shall not apply to a defense under this section.

Relief in action for infringement

183. (a) In an action for infringement, the plaintiff shall be entitled to relief by way of injunction and compensation.

(b) In awarding compensation, the Court shall take account of the act that constitutes the infringement and of the plaintiff's situation in consequence of that act, and it may also take into account –

(1) the direct damage caused to the plaintiff;

(2) the extent of the infringement;

(3) the profits derived by the infringer from the act of infringement;

(4) reasonable royalties which the infringer would have had to pay, if he had been granted a license to exploit the patent to the extent to which he infringed it.

(c) If an infringement was committed after the patent holder or exclusive licensee warned the infringer, then the Court may order the infringer to pay punitive compensation, in addition to the compensation which it adjudged under subsection (b), in an amount that does not exceed that compensation.

(d) If action was brought for compensation, then the Court may order the defendant to render an account of the extent of the infringement; however, in fixing the amount of compensation, the Court shall not be bound by the account, but may set the amount of compensation according to all circumstances of the case; this provision shall not derogate from the Law Procedure Regulations on the rendering of accounts.

Restriction on award of compensation in case of partially cancelled patent

184. If part of a patent, for the infringement of which action was brought, has been cancelled, that fact alone shall not deny the plaintiff compensation for the infringement; however, the Court may refrain from awarding compensation if the claims in the specification of the original patent were not worded in good faith or were not worded clearly.

Compensation in the case of a patent, the specification of which was amended

185. If a patent was infringed before permission was given to amend one of the claims in the specification, and if action for compensation for the infringement was brought after that permission was given, then the Court may refrain from taking the permission to amend into account, if the claims in the specification of the original patent were not worded in good faith or were not worded clearly.

Compensation in the case of a patent that was renewed

186. The Court may refrain from awarding compensation for the infringement of a patent which was committed in the period between the time for payment of the fee under section 56 and its actual payment under section 57.

Declaration of non-infringement

187. (a) If a person intends to exploit any product or process, then he may apply to the Court for a declaration that the said exploitation does not constitute an infringement of the patent specified in the application.

(b) The patent holder and the exclusive licensee shall be the respondent to the application.

(c) The Court shall not grant the declaration, unless the applicant gave the patent holder full particulars of the product or process he wishes to use, has asked him for the declaration for which he applies to the Court, and the respondent has refused to make it or has not made it within a reasonable period; however, the Court shall not reject a petition only because, the Court believes that it was submitted before a reasonable time for the respondent making the declaration had passed.

(d) The parties' costs shall be borne by the applicant for the declaration, unless the Court ordered otherwise.

(e) In proceedings under this section the argument that the patent is invalid shall not be heard, and the grant or refusal of the declaration shall not be decisive on the question of the patent's validity.

Means of enforcement

187A In proceedings under this Chapter the Court may resort to the means of enforcement enumerated in section 18C.

CHAPTER TWELVE: **JURISDICTION AND PENALTIES**

Court competent under this Law

188. (a) The Court for the purposes of this Law, except for actions for infringement, shall be the District Court of Jerusalem; however, the Minister of Justice may, by order, direct that the powers of a Court under this Law shall also vest in other District Courts which he designated.

(b) The Court for actions for infringement shall be the District Court which has jurisdiction in the matter under any other enactment.

Scientific adviser

189. (a) In proceedings under this Law, the Court may appoint a scientific adviser, who shall assist it in taking evidence and shall advise it, but who shall not take part in making judgment.

(b) The scientific adviser's remuneration shall be set by the Court and paid out of the State Treasury.

Authority to order amendment of specification

190. In any proceeding under this Law, the Court may, on the application by the patent holder, order the specification to be amended for the reasons said in section 65 or 69, and the provisions of sections 66 and 67 shall apply to it mutatis mutandis.

Powers of Court in case of referral to Registrar

191. If the Court permitted the Registrar to hear an application for amendment under section 70 or an application for cancellation under section 74, then it may stay the proceedings in an action pending before it in the matter of that patent, for a period and on conditions which it shall prescribe, but each party may apply to the Court at any time that it change the stay order or cancel it.

Penalty for pretending to be patent attorney

192. (a) The following shall be liable to a fine of IL 5,000:

(1) a person who performs any act reserved by this Law to a patent attorney while he is not a patent attorney;

(2) a person who pretends to be a patent attorney and is not a patent attorney;

(3) a person who performs any act reserved by this Law to a patent attorney while his patent attorney's license is suspended.

(b) Subsection (a)(1) shall not apply to an advocate or to a State employee who acts in the discharge of his functions, as said in section 154(b).

Acts that impair national security or the State's economic strength and disclosure of secrets

193. (a) If a person publishes or passes information in violation of a direction issued under section 94 or 99, or if he violated provisions of sections 98, 103, 114, 137, 138 or 165, then he shall be liable to two years imprisonment or to a fine of IL 20,000.

(b) Courts in Israel are competent to try an offense under section 98, 103, 138 and 165, which was committed abroad.

(c) The provisions of this section shall add to, and not derogate from the provisions of any other enactment.

CHAPTER THIRTEEN:
IMPLEMENTATION AND REGULATIONS

Implementation and Regulations

194. The Minister of Justice is charged with the implementation of this Law and he may – with approval by the Knesset Constitution, Law and Justice Committee – make regulations for its implementation, including the regulation of –

- (1) registration procedures;
- (2) Law procedure in proceedings under this Law;
- (3) the form of the application, and specifications and ways of demonstrating the invention in the specification;
- (4) the fees payable for applications submitted to the Office or for acts of the Office, for the registration or renewal of patents and for other matters to be prescribed, for which a fee is payable;
- (4a) (a) the fees to be paid:
 - (1) under Chapter Three "A";
 - (2) for acts by the Office on other matters, regulations prescribing that a fee must be paid for them;
 - (3) for acts which the Office must perform under the Convention, as defined in section 48A, on condition that the said Convention provides that fees may be collected for them;
- (b) procedures for the payment of fees required under the Convention and times for their payment.
- (5) the publication and sale of abridgments of specifications and drawings on behalf of the Registrar and the regulation of other publications produced by the Office;
- (6) the preparation, printing, publication and sale of patent specifications by the Office;
- (7) the procedure for registration of patent attorneys in the Office;
- (8) procedures for the submission of international applications under Chapter Three "A", and their handling;
- (9) setting times for the payment of fees and for performing acts required under this Law;
- (10) rules of professional ethics for patent attorneys;
- (11) law procedure for applications for the grant of an extension order of a patent, for opposition to the grant of an extension order and for applications to cancel an extension order;
- (12) ways of delivering notifications to the Registrar by the holder of a basic patent, in respect of which an extension order was granted; (13) the fees payable for the Office's activities on matters of extension orders.

CHAPTER FOURTEEN:
EFFECT AND TRANSITIONAL PROVISIONS

Effect

195. This Law shall go into effect on April 1, 1968, and from that day on the Patents and Designs Ordinance shall no longer apply to the grant of patents, to inventions and to the validity thereof; however –

- (1) the said Ordinance shall apply to a patent granted before this Law came into effect on any matter that relates to its patentability and validity;
- (2) a patent under an application, in respect of which notification was sent under section 10 of the Ordinance shall be given in the manner prescribed in the Ordinance, and once it has been granted, then paragraph (1) shall apply to it;
- (3) a Register kept under the Ordinance shall be treated like a Register kept under this Law;
- (4) a person appointed to be Registrar under the Ordinance shall be deemed to have been appointed Registrar under this law.

Transitional provision concerning patent agents

196. As of the day on which this Law goes into effect, no person shall deal with the registration of patents, unless he is registered as a patent attorney under this Law or is an advocates or a State employee in the performance of his duties as said in section 154(b); however –

- (1) an individual registered as a patent agent under the Patents and Designs Ordinance is entitled to be registered as a patent attorney under this Law;
- (2) an individual who is a partner in a firm registered as a patent agent under the Ordinance and an individual employed by a said firm is entitled to be registered as a patent attorney under this Law if they engaged – to the Registrar's satisfaction – to a considerable extent in work reserved by this Law to a patent attorney; on condition that they apply for aforesaid registration during the period between the publication of this Law in Reshumot and its going into effect when they have done so they shall have to pay a registration fee under section 142(5).