

N° 6867

**THE CONGRESS OF THE REPUBLIC OF COSTA RICA,
DECREES:**

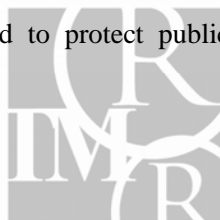
Invention Patents, Industrial Drawings and Models and Utility Models Law

CHAPTER I

Regarding inventions

Article 1°.- Inventions.

- 1.- An invention is any creation of human intellect, capable of being applied in industry, that meets the patentability conditions provided in this law. It may be a product, a machine, a tool or fabrication procedure and shall be protected by the invention patent.
- 2.- For the purposes of this law, the following will not be considered as inventions:
 - a) Discoveries, scientific theories, mathematic methods and independently considered software.
 - b) Purely aesthetic creations, literary and artistic works.
 - c) Economic advertising or business plans, principles or methods and those referred to purely mental or intellectual activities or to gaming matters.
 - d) The juxtaposition of known inventions or mixtures of known products, their variation in form or use, dimensions or materials, unless it is a combination or merger that cannot operate separately or when the characteristic qualities or functions thereof have to be modified in order to obtain an industrial result that is not obvious to an expert in the field.
3. Vegetable products shall be protected by a special law.
- 4.- The following are excluded from patentability:
 - a) Inventions whose commercial exploitation has to be objectively and necessarily prevented to protect public order, morality, the health or life of



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persons or animals, or to preserve plants or avoid serious damages to the environment.

b) Diagnostic, therapeutic and surgical methods for treatment of persons or animals.

c) Plants and animals.

d) Essentially biological procedures for production of plants and animals, which are neither non-biological nor microbiological procedures.

Article 2° - Patentable Inventions

1. An invention can be patented if it is new, has inventive level and is susceptible of industrial application.

2. *SUPERSEDED by Article 4 of Law No. 7979 of January 6, 2000.*

3. An invention is new when it does not exist previously in the state of the art. The state of the art shall comprise everything disclosed to or made available to the public anywhere in the world and by any means, before the date of filing of the patent application in Costa Rica or, as the case may be, before the applicable priority date.

The state of the art shall also cover the contents of other patent applications being processed before the same Registry of Industrial Property, which filing date or, as the case may be, priority date is previous to the date of the application to be considered, but only to the extent that this content is included in the application of such prior date when published. The state of the art shall not cover anything disclosed within the year before the date of filing of the application in Costa Rica or, as the case may be, within the year prior to the applicable priority date, provided such disclosure results, directly or indirectly, from acts performed by the inventor himself or his assignee or from a breach of contract or an illicit act committed against either.

4. The disclosure resulting from a publication made by an industrial property office in the proceedings to grant a patent, shall be comprised in the state of the art, except for the applicant for a patent or unless the application subject matter of said publication has been filed by a person not entitled to be granted the patent or the publication has been made inappropriately.

5. It shall be considered that an invention has inventive level if for a person with average skill in the respective field the invention is not obvious or evidently derived from the relevant state of the art.



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6. It shall be considered that an invention is susceptible of industrial application when it has specific, substantial and credible utility/usefulness.

7. All products or procedures that meet the patentability requirements established in this law, regardless of the place of the invention, the technology field or whether the products are imported or produced in the country, shall be patentable inventions.

Article 3°.- Patent rights. Transfer and licensing.

1. The patent rights will belong to the inventor. It is assumed that the inventor is the first applicant in the country of origin of the invention.
2. If several persons make a joint invention, the patent rights will belong to them jointly, unless otherwise agreed.
3. Patent rights may be transferred among living persons or as part of an inheritance.
4. All patent transfers or license shall be registered at the Registry of Industrial Property; otherwise they will not have legal effects for third parties.

Article 4°.- Inventions made while executing a service, project or work contract.

1. When the invention is made as the product of a non-work contract, and its purpose is to produce it, patent rights shall belong to the proxy holder, unless otherwise agreed.

When the invention has an economic value that is substantially higher than that anticipated by the parties, at least a third shall correspond to the inventor. In case the latter considers this percentage as insufficient, he shall have the right to request the respective amount to be set by a court, but its amount should never be below said third part.

2. When a worker whose contract or work relationship is intended to produce certain inventions, the patent rights over those will belong jointly to the parties that established the work relationship, and may not be waived.
3. When a worker, whose contract or work relationship is not intended to produce inventions, those that may be produced will belong to him. A third of the income that may be obtained will be paid to his employer.
4. in any case that has not been comprised in the preceding paragraphs, patent rights will always belong to the employee.

Article 5°.- Mention of the inventor



The inventor shall be mentioned as such in the patent, unless by way written statement directed to the Registry of Industrial Property, he shall state that he does not wish it to be so. Any promise or commitment made by the inventor that compels him to make such a statement will lack all legal value.

Article 6°.- Application.

1. The patent application shall be filed with the Registry of Industrial Property, accompanied by a description, claims, drawings necessary to understand the invention and an abstract of these documents. It shall also be accompanied by the voucher of payment of filing fees established in the By-Laws to this law.

2. When the applicant wants to claim the priority granted by a previous application filed in another country, the application shall be filed within twelve months following the date of filing the first application that is the basis for claiming priority rights, in accordance with the provisions of article 4 of the Paris Agreement from 1967 for the Protection of Industrial Property.

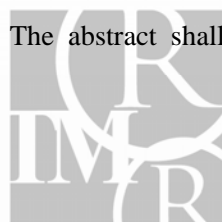
3. The application shall contain the name and means to receive notices, which could be a fax, telegram, e-mail or registry post office box, as provided by the respective By-Laws and other data in it provided for the applicant, the inventor and the representative, if applicable, and the title of the invention. If the applicant is not the inventor, the application shall include a statement justifying the rights of the applicant.

4. The description shall specify the invention in a manner sufficiently clear and complete to permit its evaluation and its implementation by a person skilled in the relevant technical field, and, in particular, it shall expressly describe the best manner known to the applicant for implementation of the invention, providing one or more specific examples, if possible, and identifying as the case may be, the one that would give the most satisfactory results in its industrial exploitation.

5. The text of the first claim shall determine the scope of protection.

The other claims shall be subordinated to the first and may refer to particular embodiments of the invention. The description and drawings can be used to interpret the claims, which shall be clear and concise, and entirely supported in the description.

6. The abstract shall include a synthesis of the matters specified in the description, the claims and drawings, if any, and, as the case may be, include the formula that best characterizes the invention. The abstract shall allow understanding the technological



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problem and the essence of the solution provided by the invention, as well as its main use. The By-Laws shall detail other requirements of the abstract.

7. The abstract shall be used exclusive for technical information purposes and not to interpret the scope of protection.

8. *Abolished.*

9. All patent applications filed with the Registry shall be classified using the International Patent Classification.

10. If at the time of filing the application it does not contain, at least, the applicant's name, description, claims and any drawing that may be necessary to understand the invention, the Registry of Industrial Property shall grant as filing date that in which the corresponding warning/notice has been complied in full.

Article 7°.- Unity of Invention

The application may only refer to one invention or group of inventions that are interrelated, in such a way that they conform a single general inventive concept.

Article 8°.- Modification, division and withdrawal of the application.

1. The applicant may modify the application, and could even modify the claims; but this can not imply broadening the disclosed invention not expanding the disclosure comprised in the initial application.

2. the applicant may divide the application in two or more fractions, but none of them can imply broadening the invention or the disclosure contained in the initial application. Each fractional application shall benefit from the filing date for the initial application.

3. The applicant may withdraw the application at any time.

Article 9°.- Formal review

1. The Registry of Industrial Property shall examine whether the review meets the requirements of paragraphs 1.-, 2.- and 3.- of article 6, and the corresponding provisions from the By-Laws.

2. In case of omission or insufficiency, the applicant shall be notified so that he may make the necessary corrections within the following fifteen natural days.

Article 10°.- Publication of the application.



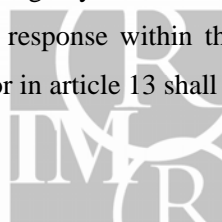
1. Once the Registry of Industrial Property has verified that all requirements mentioned in article 9°, paragraph 1 have been met, it shall notify the applicant to prove, within the following month, payment of the application's publication fee.
2. If payment of the publication fee is not proven within the above mentioned term, the application will be taken as abandoned.
3. The publication of the application will be made in the Official Journal, for three consecutive days, and at least once in a national circulation media outlet, and shall include the name and other data provided regarding the applicant, the inventor and the representative, as may be the case, the name of the invention and an abstract, that should clearly indicate what is to be patented, its usefulness as well as any other data that By-Laws may require.
4. Starting from the date of publication of the first notice, the patent application file will be open to the public for the purposes of information. The file for an application can not be reviewed/consulted before the publication of the application, unless there is written consent by the applicant.

Article 11°.- Protection prior to granting the patent.

Compensation for damages may be claimed against any person that exploits an invention claimed in a patent application, during the term comprised between the date of publication of the application and the date of grant of the patent. This compensation shall be subject to the grant of the patent and can only proceed in regards to the claims that were included in the patent.

Article 12°.- Opposition and observations.

1. Anyone who believes that the grant of the patent should be denied/rejected, because the application contravenes the requirements provided in this Law, may file opposition within a term of three months, starting from the third publication of the application in the official journal The Gazette. The opposition should be duly well-founded, and accompanied by the pertinent proof or its proposal, and proof of payment of the opposition fee. The submittal/furnishing of proof or proofs for better decision should be made within the two months following the filing of the opposition; otherwise they shall not be admitted.
2. In case of opposition, the Registry of Industrial Property will notify it to the applicant, with a caution to provide a response within the following month. Once that term has passed, the review provide for in article 13 shall take place.



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3. Once the term has elapsed without opposition having been submitted, the reviews provided for in article 13 shall take place.

Article 13°.- In depth review

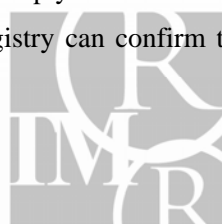
1. The Registry of Industrial Property shall assess whether the application is patentable, in accordance with articles 1° and 2°, as well as if it meets the requirement of unity of invention, according to article 7°, and if that were the case, that the modification or fractional application are in accordance with article 8°. It shall also be assessed whether the description, claims and drawings meet the requirements provided in article 6°, paragraphs 2, 3, 4 and 5 and the corresponding provisions comprised in the By-Laws.

2. The Registry of Industrial Property shall have qualified professionals to perform the in-depth review of patents, whose cost shall be governed by the fees established to that effect by the Administrative Board of the National Registry. Likewise, the Registry could require the opinion of official entities, of Higher Education, scientific, technological or professional, domestic or foreign, or in their place, independent experts in the subject matter, regarding the novelty, inventive level and industrial applicability of the invention. In any case, the appointed reviewer should be independent, honest and without conflict of interest; and also strive to keep the subject under review confidential. The above mentioned entities that are dependent or financed by the State and professional associations will be under obligation to provide the required counseling. Those who sign reports shall be responsible for their issuance, according to the provisions of article 199 of the General Law of Public Administration.

The reports submitted by counseling entities or experts should be sent within the term provided by the Registry of Industrial Property, according to the complexity of the topic and shall comprise a detailed reasoning/founding of its conclusions; their cost, set according to the By-Laws, shall be charged to the applicant.

3. In case it is noticed that the conditions of paragraph 1° are not met, the Registry of Industrial Property shall notify the applicant so as to submit, within the following month, his statements, or if that were the case, to correct and complete the documentation provided, or to modify or divide the application, in accordance with the provisions of article 8°.

4. If the applicant does not comply with that which is required by the Registry within the term provided, or if the Registry can confirm that despite the applicant's response, the



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conditions of paragraph 1 are not being met, the grant of the patent shall be denied. The denial shall be reasoned/founded and shall be notified by the Registry to the applicant.

5. The opposition that may have been filed shall be decided upon in the final decision.

6. The technical report mentioned in paragraph 2.- of the present article, shall be completed in a nonrenewable term of two years, which will be counted starting from the delivery of the application under review to the corresponding entity. The in-depth report should be completed in a term of thirty months, starting from the delivery of the application for review to the corresponding entity.

Article 14.- **Information regarding patent applications**

1. The applicant or holder of a patent in Costa Rica should indicate the date and number of every patent application or any other protection title that may have been filed, or the right that was obtained, before an industrial property bureau/office in any other country or before an regional industrial property bureau, and that may relate partially or totally to the invention claimed in the application filed in Costa Rica.

2. *So abolished by article 4º, of law 7979 of January 6, 2000.*

3. The applicant or holder of a patent shall provide the following documents in regards to foreign applications or titles:

a) A copy of any communication received by the applicant that may refer to the results of the search for priorities or reviews performed in regard to the foreign application.

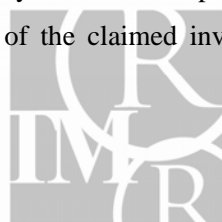
b) A copy of the patent or any other protection title granted based on the foreign application.

c) Copy of all definitive/final decisions that reject/dismiss the foreign application or deny the grant requested.

ch) Information about lawsuits or claims that are known regarding the invention or may be related therewith.

4. The applicant for a patent shall also provide the Registry of Industrial Property, upon request, copies of any final decisions that may invalidate the patent, or any other protection title that may have been granted based on the foreign application referred to in paragraph 1.

5. The documents provided by virtue of the present article will be useful to assess the novelty and inventive level of the claimed invention before the Registry of Industrial Property.



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6. If the applicant for a patent does not comply with providing the information or documentation requested within the term provided, the patent shall be rejected/denied. In duly justified cases, the applicant may request an extension of the term to submit the corresponding information or documentation.

7. The applicant for a patent may submit statements and commentary in regards to the information and documents that he may provided.

Article 15.- Granting of a patent.

1. The patent shall be granted once the Registry of Industrial Property verifies that all requirements and conditions provided by this law and its by-laws have been met.

2. The granting of a patent could be limited to one of some of the claims submitted by the applicant; in that case, the patent will be denied for the claims that do not meet the legal requirements.

3. The resolution that grants or denies a patent, totally or partially, should be duly reasoned/founded.

4. When the resolution is favorable to the application, the Registry of Industrial Property shall register the patent, providing the applicant with a certificate of grant and a copy of the patent; and shall publish a summary of the resolution in the Official Journal.

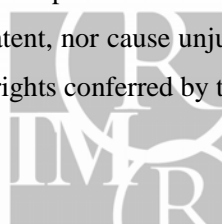
Article 16.- Rights conferred by the patent. Limitations.

1.- With the limitations provided in the present law, the patent shall confers its holder the rights to exploit the patent in an exclusive manner , and to grant licenses to third parties for its exploitation. Likewise, the patent shall confer its holder the following exclusive rights:

a) When the subject of the patent is a product, to prevent third parties, without consent, from performing acts of fabrication/manufacturing, usage, offer for sale, sale or import for these purposes the product subject to patent.

b) When the subject of the patent is a procedure, to prevent third parties, without consent, from using the procedure or acts of usage, offer for sale, sale and import for these purposes of, at the very least, the product directly obtained by such procedure.

2.- As long as the following exceptions do not attempt in an unjustifiable manner against normal exploitation of the patent, nor cause unjustified damage to the legitimate interests of its holder or licensee, the rights conferred by the patent should not extend to:



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- a) The legal acts of any nature, as long as they are performed in closed quarters and with no commercial aim.
- b) Acts performed with experimental purposes that may refer to the subject of the patented invention.
- c) Acts performed exclusively for the purpose of teaching or scientific or academic research related to the subject of the patented invention.
- d) Acts of sale, offer for sale, use, usage, import or any manner of marketing of a product protected by the patent or obtained by a patented procedure, once it has been made available in commerce in any country, with the consent of its holder or licensee.
- e) Use necessary for researching, processing or any other requirement to obtain health permits to market/sell a product after the patent that protects it has expired.

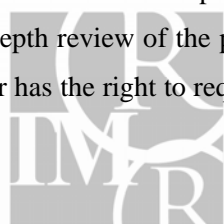
3.- The rights conferred by a patent are not opposable/exceptionable against those who, prior to the filing date or if that were the case, priority of the corresponding patent, were producing the product or using the procedure of the invention in the country, and shall have the right to continue doing it. This right can only be transferred or assigned with the company or establishment where it is being made or such production or use may be made.

4. The Ministry of Health and other competent authorities shall implement measures/policies in their processes of approval of medicines/drugs, so as to prevent that any person other than the holder of the patent may market a product covered by the patent that comprises the previously approved product, or the use approved during the validity of the patent, unless it is with consent and approval of the patent's holder.

Article 17.- Length of protection for the patent.

1. The patent shall be valid for twenty years, starting from the date of filing of the application with the Registry of Industrial Property; for patents that are processed under the Paris Agreement of 1967 for the Protection of Industrial Property or in its place, from the date of international filing for patents processed under the Patent Cooperation Treaty.

2. Despite the provision of paragraph 1.- above, and only for product patents, if the Registry of Industrial Property delayed more than five years in granting then patent, starting from the date of filing the application in the Registry of Industrial Property, or if it delays more than three years starting from the application for in-depth review of the patent provided in article 13 of this Law, whichever may come later, the holder has the right to request compensatory additional time in the



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term of validity of the patent. Such request shall be made in writing, within three months following the granting of the patent.

3. Upon receiving such request, the Registry of Industrial Property shall compensate the term of validity of the patent, at one day for each day in which the terms referred to in paragraph 2 are exceeded. However, the periods of time attributable to actions on the part of the applicant will not be included in determining the delays. Notwithstanding the abovementioned, total compensation of a patent's term of validity can never exceed eighteen months.

4. Notwithstanding the provisions of paragraph 1 above, for patents in effect that cover some pharmaceutical product, when the approval of the permit for the first commercialization of said pharmaceutical product within the country, granted by the Ministry of Health should take more than three years, starting from the date of filing the application for approval for marketing the pharmaceutical product in the country, the patent holder will have the right to request from the Registry of Industrial Property compensation in the term of validity of the patent. Said request must be made in writing, within the three months following the approval of the permit for the first commercialization of the pharmaceutical product in the country.

5. Upon receiving this application, the Registry of Industrial Property shall compensate the patent's term, at one day for each day that is exceeded in the term mentioned in paragraph 4., as long as the remaining term of validity of the patent does not exceed twelve years. Notwithstanding the abovementioned, total term compensation for the patent can never exceed eighteen months.

Article 18.- Lack or insufficiency of industrial exploitation.

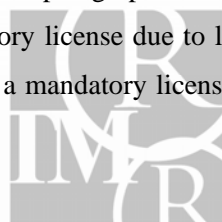
1.- The grant of a patent entails the obligation to exploit it in Costa Rica, in a permanent and stable manner, in a way such that the market place is reasonable and conveniently supplied within a term of three years, starting from the granting of the patent or four years starting from the patent application, whichever may be a longer period. Exploitation can not be interrupted for more than one year.

2.- *Abolished.*

3.- For the purposes of the first paragraph in this article, local production or legal import of products will be considered as manners of exploitation.

4. *Abolished.*

5. Once the terms mentioned in paragraph 1 of this article expire, any person may apply for the granting of a mandatory license due to lack of exploitation, during the following year. In case the granting of a mandatory license is not enough to rectify the lack of use



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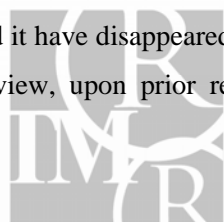
of a patent, the patent shall be declared as expired. No expiry or revocation recourse for a patent may be filed before the expiration of term of two years, starting from the granting of the first mandatory license.

6. The authorization of mandatory license shall be considered in regard to its own circumstances and shall extend to patents related to the components and processes that allow its exploitation. Such use will be authorized mainly to supply the domestic market, in accordance with the provisions of the Agreement about aspects of intellectual property rights related to trade. Prior to granting a mandatory license, the applicant shall prove that it has enough capability to exploit the patented invention and that has tried to obtain the authorization from the holder of the patent rights, in reasonable commercial terms and conditions and that those attempts have not been effective within the term provided for in the first paragraph of this article.

7. The Registry of Industrial Property shall decide, in a period of ninety natural days, the granting of a mandatory license, having granted prior audience to all parties. If it is granted, it shall determine the conditions under which it is being granted, limiting the scope or duration to the authorized goals, and the economic compensation that the holder of the rights shall receive. For this, the particular circumstances of each case should be taken into account and the economic value of the authorization, and shall keep in mind the average rate of royalties for the corresponding sector in license contracts between independent parties. In regards to semiconductor technology, only a non commercial public use can be made or be used to declare a practice against competition after a judicial or administrative process.

8.-If a motion is filed against the decision to grant a mandatory license, it shall not prevent the exploitation by the licensee nor interrupt the terms under way. It shall not prevent the holder of the patent rights to receive the royalties determined by the registry of Industrial Property, for the part that was not motioned against.

9.- The grant and conditions of a mandatory license may be modified at any time by mutual agreement, at the request of any of the parties, ex officio by the Registry of Industrial Property, when new facts arise that may justify it and particularly, when the holder of patent rights grants a license to third parties in more favorable conditions that those determined. Likewise, the authorization of mandatory licenses may be cancelled, except for the legitimate interests of those who received the authorization, if circumstances that originated it have disappeared or shall not arise again. The Registry of Industrial Property shall review, upon prior reasoned request, if those circumstances



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continue to exist; also, it shall have the authority to deny the revocation of the authorization, if it is possible that the conditions that were the basis for the authorization may arise again.

10.- mandatory license will not be exclusive nor can they be assigned, even as a sub-license, except with the part of the company or commercial establishment that exploit said license. Licensees will be under obligation to exploit their patent within a term of one year, starting from the date of granting and can not suspend the exploitation for a longer period, under penalty that the license granted may be revoked in full right.

11. *Abolished.*

Article 19.- Mandatory license for dependent patents and mandatory licenses granted for anticompetitive practices.

A. Mandatory license in case of dependent patents.

1. If the invention claimed in a patent can not be industrially exploited in the country without infringing a prior patent, the Registry of Industrial Property, at the request of the holder of patent rights for the second patent, its licensee or beneficiary of a mandatory license over the prior patent, shall grant a mandatory license in as long as it may be necessary to avoid infringement of the prior patent, subject as pertinent to the provisions of article 18 of the present law, and the following conditions:

- a) The invention claimed in the second patent must entail a relevant technical advancement, of considerable economic importance in regards to the invention claimed in the first patent.
- b) The holder of the first patent shall have the right to a cross-license in reasonable conditions, to exploit the invention claimed in the second patent.
- c) The authorized use of the first patent can not be assigned without assignment of the second patent.

2. The Registry of Industrial Property shall grant, in the same circumstances, a mandatory license with regard to the secondary patent, if so requested by the holder of the prior patent, its licensee or beneficiary of a mandatory license over that patent.

B. Mandatory licenses granted for anticompetitive practices.



1. Mandatory licenses shall be granted when the Commission for the Promotion of Competition may determine that the holder of patent has incurred in anticompetitive practices. In such cases, without prejudice of motions or hearings that the patent holder may have, the grant shall take place without need for:

a) The potential licensee may have tried to obtain authorization from the holder according to paragraph 6) of article 18 of the present law.

b) It is to supply the domestic market

2. Notwithstanding the provisions of subsection a) of paragraph 1 of this article, the holder of patent under license should be notified when reasonable possible.

3. For the purposes of the present law, the following, among others, should be considered as anticompetitive practices:

a) Setting excessive or discriminatory prices for the patented products.

b) Lack of supply to the marketplace in reasonable commercial conditions.

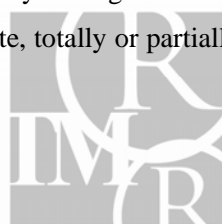
c) Hindering commercial or productive activities.

Article 20.- Public utility licenses

1.- For reasons qualified as extreme urgency, public interest, emergency or national security, the Executive Branch by way of decree may subject the patent or patent application to a mandatory license at any time, even without agreement with its holder, so that the invention may be exploited by a government entity or third party duly authorized by the government. The holder of the patent subject to license shall be notified whenever it may be reasonably possible. In order to grant the license the provisions comprised in article 18 of the present law should be observed.

2.- For public utility licenses, the State shall compensate the patent holder. The holder may file action before the administrative litigious courts so that a competent court may determine the respective economic remuneration. In order do that, the judicial authority shall consider the circumstances for each case and the economic value of the authorization, taking into account the average royalty fees for the corresponding sector in commercial license contacts between independent parties.

3.- In case the government may have granted a public utility license to a third party, the latter should repay to the State, totally or partially, the compensation to which the holder is entitled.



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4.- Public utility licenses authorize the competent authorities to use test data used to register a product in the country, so that the health permit and approval to market the products temporarily may be obtained, without disclosing the information protected. The competent authority shall protect the information against any unlawful commercial use.

Article 21.- Nullity

1. At the request of any interested party or ex-officio, and after granting a hearing to the holder of the patent, the Registry of Industrial Property shall declare the nullity of said patent, if it is proven that it was granted contravening any of the provisions of articles 1 and 2 of this law. Whoever may request the nullity of patent should furnish all proof deemed pertinent.
2. The licensee of the annulled patent shall have, if that were the case, the right to restitution for all payments already made for the patent, on the condition that he has not benefited from the license.
3. Nullity may be declared at any time before the expiry of the patent.

Article 22.- Registration and publication.

The Registry of Industrial Property shall register and publish in the Official Journal, the final decisions related to the granting of mandatory and public utility licenses, nullity declarations and well as expiry of patents.

Article 23. – Review of files.

Any person may review the files related to applications in the Registry of Industrial Property. Likewise, any person may obtain copies from the files, after payment of the corresponding fee.

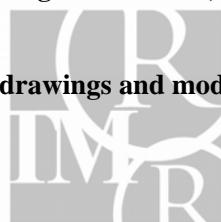
Article 24.- Information service.

The Registry of Industrial Property shall organize an information service in the subject of patents, for the general public.

CHAPTER II

Industrial drawings and models, and utility models

Article 25.- Definition of industrial drawings and models and definition of utility models.



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1. For purposes of this Law, industrial drawing shall be every gathering of lines or colors, industrial model, every plastic shape, associated or not to lines or colors, provided such gathering or shape gives a special appearance to an industrial or crafted product and can be used as a type for its manufacture. Utility model is every new layout or form obtained or introduced in already known tools, work instruments or utensils, which may permit an improved performance or a special function for the use thereof.
2. The protection granted by this law does not include the elements or features of the industrial drawing and model solely used to obtain a technical or functional effect.
3. The protection granted by this law neither excludes nor affects the rights derived from other legal provisions, in particular provisions on copyright in force.
4. The holder of a protected industrial drawing and model shall have the right to prevent third parties to manufacture, sell or import without his/its consent any goods that bear or incorporate a drawing or model that is a copy or fundamentally a copy of the protected drawing or model, when such actions are performed for commercial purposes.

Article 26.- Protection. Excluded subject matter.

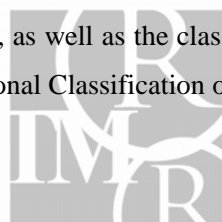
- 1.- Independently obtained new and original drawings and industrial models shall be protected by this law.
- 2.- Drawings or models contrary to public order, morals or good customs shall not be registered, on condition that these exceptions do not unjustifiably hinder the normal exploitation of the protected drawings and industrial models, nor cause un justified damage to the legitimate interests of the holder of the drawing or protected model; the rights of third parties shall be taken into account.

Article 27.- Rights over the drawing or model. Transfer and licensing.

The rights to obtain registration of a drawing or model shall belong to its creator or creators. The provisions of article 3° shall be applicable as it may pertain.

Article 28.- Application.

1. The application for registration of a drawing, industrial model or utility model shall be filed in the Registry of Industrial Property and shall comprise, apart from the data provided for in the By-Laws, an indication of the type or genre of products to which the drawing or model will apply, as well as the class or classes to which the products belong to, according to the International Classification of Drawings and Industrial Models.



2. The application should be accompanied by five graphic or photographic representations of the drawing or model, a summarized description thereof, a sample of the object that incorporates it, whenever possible, and voucher for payment of the corresponding fee.

Article 29.- Registration review.

1. The Registry of Industrial Property shall review whether the application meets legal and regulatory requirements.
2. Once the Registry of Industrial Property has verified that requirements have been fulfilled, it shall publish an abstract in the Official Journal with a reproduction of the drawing or model; and if it is a drawing or industrial, it shall register it and issue a certificate of registration to the applicant.
3. In the case of utility models, the Registry shall conduct an in-depth review, applying the provisions of article 13, as it may pertain.

Article 30.- Duration of registration.

The registration of a drawing or model will last for ten years.

Article 31. Supplementary provisions.

The first part of this law shall be applicable, as it may pertain, to the protection of drawings and industrial models and utility models.

CHAPTER III

General provisions

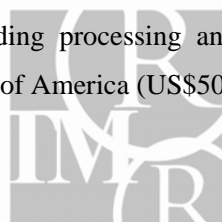
Article 32.- Abandonment of process.

The applications for registration and actions executed under the governance of this Law, will be taken as abandoned and shall expire pleno jure, if process is not requested within a period of three months, starting from the date of the last notification made to the interested parties.

Article 33.- Destination of fees.

The fees related to invention patents shall be the following:

- a) Filing application, including processing and formal review: five hundred dollars, currency of the United States of America (US\$500,00).



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- b) For each fractional application: five hundred dollars, currency of the United States of America (US\$500,00).
- c) Registration and issuance of patent registration certificate: five hundred dollars, currency of the United States of America (US\$500,00).
- d) Opposition: twenty five dollars, currency of the United States of America (US\$25,00).
- e) Application for an extension of the term of validity of a patent: five hundred and fifty dollars, currency of the United States of America (US\$150,00).
- f) Annual fees: five hundred dollars, currency of the United States of America (US\$500,00).
- g) Surcharge for payment within the grace period: thirty percent (30%) of the corresponding annual fee.

Applicable fees according to this law shall become part of the budget of the Registry of Industrial Property. For its strengthening, and may be paid in their equivalent in colones, at the official exchange rate of the banking entity that receives payment.

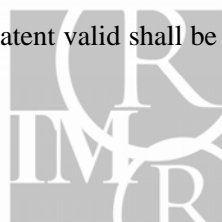
When applications such as those provided for in subsections a), B), c) and e) of this article are filed by inventors as individuals, by micro or small companies according to law No. 8262, by higher education public educational institutions, or by scientific and technological research institutes from the public sector, they may only pay thirty percent (30% of the fees established, as well as thirty percent (30%) of the fee established in subsection f) for annual fees during the validity of the patent. In order to do this, they should attach to the application, apart from the voucher, the following documents:

- I. -Affidavit, declaring that they fall within one of the assumptions quoted in the preceding paragraph.
- II.- A copy of the identity card, for individuals, and a copy of the corporate identity number in the case of legal entities

In order to proceed with the registration of the assignment of third party rights that are not within one of the assumptions provided herein, the latter shall cover the remaining seventy percent (70%) of the installments of the fee in effect that was not originally covered by the assignor. Likewise, starting from that transferal, the assignee shall cover the totality of annual fees established for the preservation of his/its rights.

Article 33 bis.- Payment of annual fees.

- 1. Annual fees to keep the patent valid shall be paid in advance, for two or more annual periods.



2. In case the annual rate is paid within the grace period , the fee owed and the respective surcharge shall be paid simultaneously. The patent shall remain in full validity during the grace period.
3. If there is no payment of the respective annual during the grace period, the registry of Industrial Property shall make the exhortations for payment provided in article 150 of the General Public Administration Law and if payment is not accredited within the term provided for that purpose, the Director of the registry of industrial Property shall certify the indebtedness.
4. Payments of annual fees shall be annotated in the registry, under the corresponding entry for the patent that has been paid. The entry shall indicate the amount paid, the period or periods paid and the date of receipt.

In case of renunciation, caducity/expiry or declaration of nullity, there shall be no right to a reimbursement of fees or annual fees paid in advance.

Article 34.- **Representatives.**

If the applicant is domiciled or is based outside of Costa Rica, it shall be represented by an attorney domiciled in the country, with power of attorney.

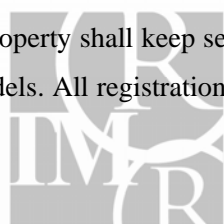
Article 34 bis. **Formalities of powers of attorney.**

To act on behalf of an individual or legal entity in any of the acts related to intellectual property , there should be an authorization from the grantor or power, in a legalized/authenticated power, as a minimal formality; in any case, the registration of such power of attorney shall not be required. When the power of attorney is issued in another country, it may be formalized in accordance with the domestic regulations of the country of issuance, and shall be authenticated.

Unless there is a provision to the contrary, every representative is understood to be authorized in a sufficient and enough manner as to perform the acts that laws authorize the holder of the corresponding intellectual or industrial property rights to execute himself/itself, before any authority, bureau or public registry, for the registration, transfer, license and other movements applied, conservation or defense of its rights, both on administrative and judicial levels, in all their instances and incidences.

Article 35.- **Registrations.**

The Registry of Industrial Property shall keep separate registrations for patents, drawings and industrial models and utility models. All registrations may be reviewed in the registry by any



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person, free of charge. Any person may request and obtain copies of the entries and annotations from the registries, after payment of the corresponding fee.

Article 36.- In-depth reviewers.

The Administrative Board of the National Registry will create its own salary standards/system for personnel that stands out as institutional in-depth reviewers, and shall be authorized to hire the required technical and professional personnel to satisfy the needs of the public service provided by the registry of Industrial Property. This personnel shall be paid with funds from the Administrative Board, for the period stipulated or indefinitely. Personnel hired under this modality shall be excluded from the Civil Service System.

The Administrative Board of the National Registry shall create, by way of By-laws, a special system for hiring external personnel, in a manner such that it guarantees suitability, honesty and impartiality in its duties.

Article 37.- Abolished

Article 8.- Abolished

Article 39.- The benefits granted by the present law shall not be applicable in regards to goods and products that the State/Government or its entities may import as donations or payment in kind.

Article 40.- By-Laws.

1. The executive Branch shall promulgate the By-laws to the present law in a term of six months.
2. the By-laws shall define the authorized fees for the present law, after a proposal by the Administrative Board of the National Registry.

Article 41. Entry into effect. Derogations.

1. The present law shall come into effect one month after its publication.
2. This is a public order law and derogates chapter VI and article 66, 67 and 71 of Law No. 40 of June 27, 1896, article 2 and 3 of law no. 6219 of April 19, 1978, and any other provision that may oppose it.
3. International agreements currently in effect are not to be affected.



TRANSITIONAL PROVISIONS:

I.- Applications that were under process when this law came into effect shall continue until their final resolution according to the provisions of laws herein derogated.

II.- Application that are received when this law comes into effect, shall be numbered following the existing numbering, and the same shall apply to registration entries.

III.- registration books shall continue in the same manner and existing order, but the registry shall provide anew series of books for the registration of industrial models and drawings and utility models, with numbering starting only for these registrations.

IV.- The herbicide Propanil is declared of public utility and thus of free import and sale.

V.- The decrease in production costs that may be caused by entry into effect of this law shall be transferred to the final products that consumers buy. The Consumers Attorney's Office shall watch over the application of this transitional provision.



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