

Amalgamation of Egyptian Patent Law with Trips Agreement

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IN 1995 the Egyptian parliament voted for TRIPS agreement. In the light of the TRIPS Agreement it was important to amend the Egyptian patent law (132/1949) to bring the same in accordance with the Agreement.

The main characteristic of the new patent law may be summarized as follows:

1. Patent examination and realization of the absolute novelty of the invention, industrial application and its inventive step are pre-requisites for granting a patent (Article 1).
2. A new category of inventions of moderately inventive step but having industrial benefits, i.e. utility models (Gebraucht-muster), is covered by (Article 5 and Article 30), its protection is for 7 years only (Article 31).
3. Patent term is 20 years and not 16 years as before (Article 10).
4. The protected exclusive right of the investor does not include experimentation for scientific research purposes (Article 11/1).
5. Patent protection covers not only the product but also the method of preparation (Article 11).
6. Each patent should cover only one invention (Article 13).
7. Inventors concerning biological or botanical materials and new micro-organisms are patentable (Article 14).
8. Before examining drugs, chemical and pharmaceutical patents, the Ministry of Health should send its approval (Article 19).
9. To keep the drug prices within the financial level of the public, a fund is established to nullify the high increase in prices (Article 20).
10. Compulsory licensing is regarded an important tool in technology transfer. Generally, the reasons for compulsory licensing are those of the non-working, insufficient working or interdependence of

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patents and the public interest in the working of patented inventions dealing with energy, food and medicine (Article 25, 26 and 27).

11. Administrative courts are the place of competence for patent disputes (Article 29).

In practice, the fundamental importance of the patent law to inventors, and to the public at large, is to protect against the usurpation of novel and inventive concepts, either in Egypt or outside Egypt for Egyptian inventors or non Egyptian inventors. The law has little regard to the mental process by which the invention was actuated, whether the discovery is by accident or by long and laborious thought. The merit of a patent is to be determined, not by its standing in dialectics, but by its actual impact upon the article to which it belongs.