

TABLE OF CONTENTS

	PAGE
Law No. 2 of 2011 A.D.	2
Pertaining to Patents of Invention, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information	
<hr/>	
Part One	
Denominations, definitions and objects	2
<hr/>	
Part Two	
Patents of Invention and Utility Models	3
<hr/>	
Chapter One: Patents of Invention	3
Chapter Two: Utility Model Patents	7
Part Three	
Layout designs of integrated circuits	8
<hr/>	
Part Four	
Undisclosed information	9
<hr/>	
Part five	
Non-voluntary licenses	10
<hr/>	
Part six	
Penalties	11
<hr/>	
Part Seven	
General and final provisions	12
<hr/>	

In the name of Allah, the most gracious, the most powerful

Republic of Yemen

Ministry of Legal affairs

Law # 2 of 2011 A.D.

Pertaining to Patents of Invention, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information

In the name of People,

The President of the Republic:

Upon perusal of the Constitution of the Republic of Yemen,

Upon the approval of the Parliament,

We, hereby enact the following Law:

Part One

Denominations, definitions and objects

Article 1

This Law shall be denominated (Law on Patents of Invention, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information).

Article 2

For the purposes of the application of the provisions of this Law, the following terms and phrases shall have the corresponding meaning, unless the context otherwise provides:

- **The Republic:** The Republic of Yemen.
- **The Minister:** The Minister of Industry and Trade.
- **The Regulation:** The Executive Regulations Implementing this Law.
- **The Court:** The Competent Commercial Court.
- **The Competent Department:** the Department concerned with the protection of Intellectual Property in the Ministry.
- **The Register:** The Register in which information and data related to Patents of Invention, Utility Models, Layout Designs of Integrated Circuits, Undisclosed Information shall be automatically or manually recorded.

- **The Invention:** an idea innovated by the inventor, which leads to solving certain problem in the technical field.

Article 3

This Law aims at encouraging:

1. Inventions and Innovations in the Republic;
2. Development of technical and scientific researches;
3. Enhancement of trade and national and foreign investment rates;
4. Transferring technology to the Republic for promoting the industrial activity and developing economy.

Part Two Patents of Invention and Utility Models

Chapter One: Patents of Invention

Article 4

The invention shall be patentable, pursuant to the provisions of this Law if it is new, involve an inventive step and susceptible of industrial application. The invention may be related to a product or industrial process.

Article 5

- A. An Invention is new if it is not anticipated by prior art. Prior art, for the purposes of this Law, in this field, means everything disclosed to the public anywhere by means of written or oral disclosure, by method of usage, or by any other way by which the invention is known to the public, before the relevant filing date of the patent application or priority application.
- B. Disclosure of the invention to the public shall not be taken into consideration had it taken place within the priority period. The Regulations shall determine the other conditions of disclosure of the invention that are not included within the meaning of the prior art.
- C. The invention shall be deemed to involve an inventive step if it would not have been obvious to a person having ordinary skill in the art to achieve such invention having regard to the prior art related to the subject matter of the patent application.
- D. The invention shall be considered industrially applicable if it can be produced or used in any of the industrial or agricultural fields, including handicraft, fishing, and services.

Article 6

A patent shall not be granted to the following:

1. The invention, whose use is contrary to the Islamic Sharia, contrary to the public order or morality, violates the security of the Republic or damage to the environment or human, animal or plantation life and health.
2. Discoveries, theories, mathematical methods and the regulations, rules, principles and techniques of doing business, exercising pure mental activities or playing games.
3. Methods of diagnosis, surgery or treatment of human beings or animals.
4. Plants or animals or processes used to produce plants or animals with the exception of micro biological organisms, non-biological methods and micro biological processes.
5. Organs, tissues, living cells, natural biological substances, DNA, blood, hormones and genes.

Article 7

- A. The patent of invention shall be exclusively owned by the inventor, in whose name it was issued. Such ownership shall be transferable by inheritance and assignable to third parties.
- B. If the invention is a result of joint efforts of several individuals, the ownership of the patent shall belong to them equally, unless otherwise multilaterally agreed upon. A person, whose activities were limited to help carrying the invention into effect, shall not be considered a joint inventor.
- C. If more than one person have individually achieved the same invention, the patent of invention shall be granted to whoever first applied for filing the invention to the Competent Department.

Article 8

- A. The employer shall have the right to a patent achieved by an employee, if the invention was the result of execution of an employment contract or an individual obligation providing for carrying out such invention. The right shall also be assigned to the employer if he proves that the employee would not have achieved such an invention had he not used the facilities, means, or information made available by the employer, unless otherwise the employment contract provides.
- B. The provision provided for in paragraph 1 of this article shall not prejudice to the employee's right to receive financial remuneration to be agreed upon by both parties or estimated by the Court in the light of the circumstances of the employment contract and the economic significance of the invention.
- C. A patent application submitted by an employee within the year subsequent to the date of termination of his services shall be considered as having been filed during his employment.
- D. The application of the provisions of this article shall include the employees in governmental authorities.

Article 9

- A. The applicant for patent of invention shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person having ordinary skill in the art. The specification shall include one or more of the new claims. If the application pertains to an invention that includes biological substances of plant or animal origin or traditional knowledge, the inventor shall provide a proof that he legally obtained the sources thereof.
- B. Patent application shall be submitted to the Competent Department on the relevant form. The Regulations shall indicate the information to be included in the application, the registration thereof in the register, the rules, procedures and dates of examining the application and the documents required to be attached.
- C. The patent applicant may introduce the amendments he deems fit to the application pursuant to the rules and procedures prescribed by the regulations.

Article 10

The patent applicant may avail of the priority of previous application filed in a country bound by an International Intellectual Property Agreement, to which the Republic is a party, or dealing in reciprocity therewith, provided that:

- i- the application is filed with the Competent Department within a twelve- month- period to be calculated as of the day following the date of filing the previous application; and
- ii- an official copy is provided that proves that the previous application has been filed with the filing party in the other country within ninety days as of the date of filing the patent application with the Competent Department .

In this case, the date of filing the patent application with the Competent Department shall be deemed the date of filing the previous application for the same invention in that State.

Article 11

- A. In the event of approving for the patent application, the Competent Department shall publish the application in any widespread means as determined by the Regulations.
- B. Any interested party may, within ninety days as of the date of publication of filing the application provided for in paragraph A of this article, lodge a written opposition with the competent Department against the patent application. The opposition shall include the reasons for the opposition against proceeding with the grant of the patent. The competent Department shall notify the patent applicant with a copy of the opposition, to which the applicant shall reply within thirty days of being so notified. Otherwise, the applicant shall be deemed to have waived the patent application.
- C. The Competent Department shall issue a justified decision resolving the opposition submitted within the legally prescribed period against the application for registration of patent of invention, whether by acceptance or rejection.
- D. The patent applicant or the opposing party may challenge the competent Department's decision aforementioned in paragraph C of this article, before the court, within 30 days as of the date of

receiving a copy of the decision. Challenging the decision of rejecting the opposition shall not result on suspending action in the application, unless the Court otherwise decides.

Article 12

The patent applicant shall be granted a grace period of twelve months to proceed with the application for patent of invention. Such period shall start from the lapse of the period provided for lodging the opposition as set forth in paragraph B of article 11 of this Law, provided that no opposition has been lodged against the application during such period; from the date of deciding on the opposition; or from the date of issuance of a court decision. Otherwise, the applicant shall be deemed to have waived the application.

Article 13

The invention shall be granted protection for twenty non- renewable years, starting from the date of application.

Article 14

- A. The patentee may, if introducing any modification or amendment to the original invention, be granted patent of addition. The patent of addition shall be protected for the remaining protection period of the original patent.
- B. The patent of addition shall be governed by the same provisions applying to the original patent of invention set forth in this Law.

Article 15

Inventions displayed in the national or international exhibitions held in the Republic shall enjoy temporary protection. Temporary protection shall not result in extending the protection period provided for in article 13 of this Law. The Regulations shall prescribe the rules and procedures governing the grant of such protection.

Article 16 Any interested party, after the issuance of the patent of invention, may view the register and obtain an extract of the information included therein against payment of the prescribed fee.

Article 17 The Patentee shall acquire the following rights:

1. Exclude others from manufacturing, utilizing, using, offering for sale, selling or importing the product, the subject matter of the invention, without prior approval therefrom.
2. Exclude others from using the manufacturing process or using, offering for sale, selling or importing the product that is directly made through such process, without prior approval therefrom,
3. Mortgage or assign the patent of invention to third parties,
4. Grant contractual license to third parties for using the invention, in whole or in part. The grant of license shall not result in depriving the patentee from using the protected invention. The Regulation shall set forth the rules and procedures governing the recordation of the license and the method of proclamation thereof.

Article 18

The patentee's right in excluding others from importing, using, selling or distrusting the patented product shall lapse, in the event that the patentee marketed or authorized others to market such product in any country.

Article 19

The patent and the resulting rights shall lapse, in the following cases:

- A. Expiration of the protection period prescribed in article 13 of this Law;
- B. Failing to pay the annuity for the continuation of protection of the invention;
- C. The issuance of judicial decree that invalidates or cancels the registration of the patent.

Chapter Two: Utility Model Patents

Article 20

A utility model patent shall be granted, under the provisions of this Law, if the utility model includes any new technical addition in the structure, composition, devices, tools or the components thereof and the like that is in commercial use.

Article 21

The utility model application may be converted into patent application, after satisfying the respective conditions. The patent application may further be converted into utility model application. In both cases the protection period shall start from the date of the original application.

Article 22

The protection period for a utility model shall be seven non- renewable years, starting from the date of payment of the fees prescribed for applying for Utility Model.

Article 23

The Regulations shall set forth the rules and procedures of applying for Utility Model, the documents required to be attached, the date of examining, resolving and publishing same, the manner of filing petition against the decisions issued thereon, and the prescribed fee.

Part Three

Layout designs of integrated circuits

Article 24

- A. For the purposes of application of the provisions of this Law, Layout design means any three dimensional disposition prepared for an integrated circuit intended for manufacturing. "Integrated circuit" means any product, in its final form or an intermediate form that includes components, at least one of which is an active element fixed on a piece of isolating material, and forms with some or all of the interconnections an integral part intended to perform a specific electronic function.
- B. A layout design shall be liable for protection if it is new, and if it is the result of an intellectual effort and is not part of the general knowledge common among professionals of the relevant industrial art.

Article 25

A layout design shall be granted protection for ten years starting from the date of applying for protection to the Competent Department, or the date of first exploitation of the layout design anywhere in the world. The Regulations shall set forth the rules and procedures of registering the layout designs of integrated circuits.

Article 26

With the exception of the reproductions of layout designs for personal or scientific purposes, the holder of layout design protected pursuant to this Law may request the court to exclude others from using the layout design, without prior approval therefrom. The following acts shall be deemed illegal use of the layout design:

- A. Reproducing, whether by incorporation in an integrated circuit or otherwise, the whole or any innovated part of the layout design.
- B. Importation, sale or distribution of the layout design or any layout design of integrated circuit incorporating the protected layout design, or any product including an integrated circuit, which includes an unlawfully reproduced layout design.

Article 27

The rights granted to the holder of the layout design of integrated circuit shall be limited to acts intended for commercial purposes. Such holder may not exercise such rights with another similar layout design independently innovated by another person. The holder may not further exercise his rights in respect of another layout design innovated on the basis of the analysis or evaluation of the protected design or any integrated circuit incorporating the other layout design.

Article 28

Acts cited in paragraph B of article 26 of this Law, shall not be deemed infringement, if such acts are done or caused to be done by a person who did not know, or has no reasonable justifications to know, at the time of obtaining the integrated circuit or the product including such integrated circuit that it incorporates an unlawfully reproduced layout design of integrated circuit.

Such person may, after paying to the holder of the layout design a fair compensation to be agreed upon by both parties or estimated by the court, carry out such acts in respect of any stock in his possession or ordered by him, before duly receiving an explicit notification that the layout design has been unlawfully reproduced.

Part Four Undisclosed information

Article 29

Undisclosed Information shall be legally protected provided that:

- A. It is confidential information, in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known or circulated among those involved in the industrial art within the scope of which the information falls.
- B. Information that has commercial value because it is confidential.
- C. Information that depends on the effective measures taken by the person lawfully in control of it, to keep it confidential.

Article 30

Protection conferred by the provisions of this Law shall extend to undisclosed information that resulted from a considerable efforts provided to the competent authorities for allowing the marketing of medicines and agrochemical products which utilize new chemical components.

The competent authorities who receive such information shall protect it against disclosure and unfair commercial use from the date of providing it until it is no longer confidential.

Disclosure of information, by the competent authorities, within its tasks where necessary to protect the public, shall not be deemed to constitute an infringement on the rights of the owner thereof.

Article 32

The person lawfully in control of undisclosed information shall take all necessary measures to preserve such information and prevent its circulation amongst others.

The person who is lawfully in control of such information shall also be liable if others infringe on the information, unless he proves that he has exerted reasonable and adequate efforts to preserve such information.

The confidentiality of information, and the resulting rights to prevent others from infringing on such information, shall subsist insofar as the information is considered undisclosed according to the provision of Article 29 of this Law.

The rights conferred on the person who is lawfully in control of undisclosed information shall be extended to the prevention of others from disclosing such information to others, or obtaining or using such information without prior approval therefrom in a manner contrary to the fair commercial practices.

Article 32

The following acts shall not be deemed to be contrary to fair commercial practices:

- A. Acquisition of information from available public sources such as libraries, including patent office libraries, public government records and published researches, studies and reports.
- B. Acquisition of the same information by exerting personal independent efforts through examination, testing and analysis of the product in circulation in the market, which incorporate the undisclosed information.
- C. Acquisition of information as a result of independent efforts in research, innovation, invention, development, modification and improvement.
- D. Acquisition and use of known and available information which is circulated among those involved in the industrial art within the scope of which the information falls.

Part Five Non-voluntary licenses

Article 33

The Minister shall, upon proposal of the Competent Department or upon the decision of the concerned authority, grant non-voluntary licenses for the exploitation of an invention protected by a patent, utility model or a certificate of layout design of integrated circuit. Nevertheless, each license for use shall be examined in the light of its subjective usefulness, subject to the following:

- A. The patentee, after the lapse of four years since the date of filing the application for patent or three years since the grant of the patent, whichever comes later, fails to exploit the invention or it was not sufficiently exploited, without providing a valid excuse;
- B. If it is determined, pursuant to Judicial or administrative measures, that the patentee has misused the rights conferred by the patent or exercised them in a manner that is contrary to fair commercial practices;
- C. If the applicant for non-voluntary license proves that he failed to obtain a license from the right holder of the patent, despite the efforts he exerted, as per suitable commercial terms and reasonable financial compensation, within a reasonable period. The term and terms provided for in paragraph A of this article shall not apply to the cases of national emergencies, circumstances of extreme urgency, or public non-commercial interests. In the last case, the right holder of the patent shall be promptly notified.
- D. The non-voluntary license is granted for the purpose of supplying local markets with the invention, layout design of integrated circuit or utility model.
- E. The decision of granting the non-voluntary license shall determine the scope and period of license as necessary for achieving the purpose for which it was granted. The non-voluntary

license shall be liable to lapse if the conditions which led to its grant cease to exist and are unlikely to reoccur, without prejudice to the legitimate interests of the licensee. The concerned authority shall have the competence to decide whether such circumstances remain or cease to exist, upon request from the interested parties.

- F. The license shall not be exclusively granted to the licensee. The licensee shall not assign the non-voluntary license to third parties except with the enterprise or the part related to the exploitation of the invention.
- G. Each application shall be individually resolved.
- H. The owner of the patent, utility model, layout design of integrated circuit shall be entitled to a fair compensation, without prejudice to the economic value of the license. The amount of compensation shall be determined by the party that issued the decision. The licensee shall pay the due amount. The decision of determining the compensation for the owner of the patent, utility model, certificate of layout design of integrated circuit in respect of using the non-voluntary license may be examined before the court or independently reviewed by a neural authority.

Article 34

The grant of a non-voluntary license to use a patent of invention in the field of semi-conductor technology shall be authorized for public non-commercial purposes only, or to remedy the consequences of any practices that were determined to be unfair, pursuant to judicial or administrative procedures.

Article 35

If a patent of invention that underlies concrete technical advance with economic significance, inevitably requires for its exploitation the use of another patent of invention (the first patent), the patentee shall be entitled to obtain a non-voluntary license for the exploitation of the first patent. In this case the non-voluntary license may only be assigned with the second patent. The first patent holder shall be entitled to a corresponding license from the non-voluntary licensee, as per reasonable terms. The Regulations shall determine the conditions and procedures of recording amending and terminating the non-voluntary license.

Part Six Penalties

Article 36

The following shall be penalized by a fine not exceeding one million Yemini Riyals:

1. Whoever imitates, for trading purposes, the subject matter of a patent of invention, a utility model, or layout design of integrated circuit registered and protected in accordance with the provisions of this Law;
2. Whoever knowingly sells, offers for sale or circulation, imports or possesses with the intention to trade, counterfeit products of the invention subject matter;

3. Whoever unlawfully affixes, on products, advertisements, packaging materials or others, indications that may lead to believe that such a party has obtained a patent of invention or a utility model.

In case of recurrence of any of the offences above mentioned in this article, the penalty shall be doubled. In all cases, the court shall order the seizure of the infringing counterfeit products and the implements used in the counterfeit. The conviction decision shall be published as deemed fit by the court.

Article 37

Whoever violates any other provision in this law shall be penalized by a fine not exceeding five hundred thousand Yemini Riyals.

Article 38 the party damaged by the offences provided for in articles (36, 37) of this law may institute an action against the offender before the court demanding compensation for the damages caused.

Part Seven General and final provisions

Article 39

The holder of a patent, utility model or layout design of integrated circuit may request the court, after depositing a financial surety to be estimated by the court, to issue precautionary decision in respect of the claimed counterfeit products or goods of the patented product, pursuant to this Law. The precautionary decision shall be issued before instituting a legal action and shall lapse if the action was not instituted within eight days as of the date of the issuance of the decision.

Article 40

The identical product shall be deemed to be obtained by the patented process, if the plaintiff proves in his action that the identical product was obtained by the direct use of the patented process; or that he has exerted reasonable efforts to disclose the process actually used in the production. In such a case, the court may order the defendant to provide evidence that the process used in obtaining the identical product was different from the patented manufacturing process owned by the plaintiff.

The court, in case of taking measures of proving, shall take into account the defendant's right to protect his manufacturing and business secrets.

Article 41

The following acts made by third parties shall not be deemed infringement on the rights of the holder of patent of invention, utility model or layout design of integrated circuit:

1. Activities associated with scientific research purposes;
2. Where a third party proceeded, in good faith, with the making of a product or use of a process of manufacturing a certain product or made serious preparations for such activities prior to the date

of an application for patent, utility model or layout design of integrated circuit by another person for the same product or process of manufacturing thereof.

3. Indirect uses of the production process that constitutes the subject matter of the invention, in order to obtain other products.
4. Use of the invention on a land vehicle, vessel or aircraft belonging to a country that is member of an international agreement to which the Republic is a party, or according to the principle of reciprocity, when such vehicle, vessel or aircraft is temporarily or accidentally present in the Republic.
5. Where a third party proceeds, during the protection period of a product, with its manufacturing, assembly, use or sale, with a view to obtain a marketing license, provided that the marketing starts after the expiry of such a protection period.
6. Any other acts by third parties made through the above mentioned activities, provided that they shall not unreasonably hamper the normal exploitation of the patent and shall not be unreasonably detrimental to the legitimate interests of the patent owner, without prejudice to the legitimate interests of others.

Article 42

Any natural or corporate person, whether Yemini or foreigner, domiciled in the Republic or in any country or an entity that is a member of an international agreement for intellectual property to which the Republic is a party or that deals with the Republic according to reciprocity, shall have the right to apply for a patent of invention, in conformity with the provisions of this Law.

Article 43

The minister, in coordination with the concerned ministers, shall take the necessary measures and procedures for the protection of public health, nutrition, development of the vital economic sectors. Such measures and procedures shall include those necessary to be taken in case of the holders or acquirers of patents' misuse of their rights, or in case of the practices that inappropriately restrict the trade or adversely affect the transfer of technology, in the manner prescribed by this Law.

Article 44

The Court shall have jurisdiction to examine all the actions and litigations arising as a result of the application of the provisions of this Law.

Article 45

The Regulations shall set forth the amount of fees for the application and examination, the charges of experts sought by the competent department and the annuity to be paid by the patentee to ensure the continuation of protection. The Regulations shall further set forth the rules for reducing the fees and the cases of exemptions.

Article 46

The executive Regulations implementing this Law shall be issued as per the Prime Minister's decision, after the Cabinet's approval, upon proposal from the Minister.

Article 47

Provisions pertaining to the inventor's right provided for in the presidential decree of Law No.19 of 1994, in respect of the intellectual right and any provisions contrary to the provisions of this Law shall be hereby repealed.

Article 48

This Law shall be published in the official gazette and shall come into force after three months of the enactment thereof.

Issued at the presidency of the Republic, Sana'a

Dated, Safar 8th, 1434 A.H.

Concurrent with January 12th, 2011 A.D.

Ali Abdullah Saleh

The President of the Republic