

Patent Law

Order No. 03–07 dated 19 Jumada I 1424 corresponding to July 19, 2003 related to patents of invention.

- By virtue of the Constitution, especially Articles 38, 52, 122 and 124 therein,
- In accordance with Order (Act) No.66-48 dated 5 Dhu Al-Qada 1385 corresponding to February 25, 1966, which includes the People's Democratic Republic of Algeria's joining the Paris Convention dated March 20, 1883 and related to the protection of industrial property.
- In accordance with Order No. 66-154 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Civil Procedures Law, as amended and supplemented,
- In accordance with Order No. 66-155 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Penal Procedures Law, as amended and supplemented,
- In accordance with Order No. 66-156 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Penal Law, as amended and supplemented,
- In accordance with Order No. 75-02 dated 26 Dhu Al Hijjah 1394 corresponding to January 9, 1975, which includes the approval to the Paris Convention for the Protection of Industrial Property concluded on March 20, 1883 and amended in Brussels on December 14, 1900, Washington on June 2, 1911, Hague on November 6, 1925, London on June 2, 1934, Lisbon on October 31, 1958 and Stockholm on July 14, 1967.
- In accordance with Order No. 75-58 dated 20 Ramadan 1395 corresponding to September 26, 1975, which includes the Civil Law, as amended and supplemented,
- In accordance with Order No. 75-59 dated 20 Ramadan 1395 corresponding to September 26, 1975, which includes the Trade Law, as amended and supplemented,
- In accordance with Law No. 79-07 dated 26 Sha'ban 1399 corresponding to July 21, 1979, which includes the Customs Law, as amended and supplemented,
- In accordance with Law No. 84-17 dated 8 Shawwal 1404 corresponding to July 7, 1984 related to the Finance Laws, as amended and supplemented,
- In accordance with Legislative Decree No. 93–17 dated 23 Jumada II 1414 corresponding to December 7, 1993 related to the protection of inventions.
- In accordance with Presidential Decree No. 99–92 dated 29 Dhu Al-Hijjah 1419 corresponding to April 15, 1999, which includes the endorsement, with reservation, of the Patent Cooperation Treaty concluded in Washington on June 19, 1970 and amended on September 28, 1979 and February 3, 1984, and its implementing regulation.
- Having listened to the discussions of the Council of Ministers,

The President of the Republic issues an order that reads as follows:

PART ONE OBJECTIVE & DEFINITIONS

Article 1:

This Order shall aim at determining the conditions of invention protection and the methods and effects thereof.

Article 2:

The following words herein shall have the meanings indicated against each:

- Invention: an idea of an inventor that practically provides a solution for a specific problem in the technology field.
- Patent or Patent of Invention: a document delivered for the protection of an invention.
- Competent Authority: the National Algerian Institute for the Protection of Industrial Property.

PART TWO GENERAL PROVISIONS

Chapter One Patent Validity Requirements

Article 3:

The new inventions resulting from an inventive activity and industrially applicable shall be protected by a patent of invention.

An invention may involve a product or a method.

Article 4:

An invention shall be considered novel if not included in the state of art. This case includes all that is offered to the public by a written or oral description, by use or any other means around the world one day prior to filing the application for protection or the date of claiming priority thereof.

An invention shall not be considered publicly circulated once it is introduced within 12 months prior to the date of filing the patent or the priority date as a result of an act carried out by the applicant or his predecessor in right in accordance with Article 14 below, or an abusive act taken by a third party against the applicant or his predecessor in right.

Article 5:

An invention shall be considered as resulting from an inventive activity if it is not recognized intuitively from the state of art.

Article 6:

An invention shall be industrially applicable if its subject matter is liable to be manufactured or used in any type of industry.

Article 7:

The following shall not be considered as inventions as provided herein:

- 1- Scientific principles, theories and discoveries, as well as the mathematical approaches.
- 2- Plans, principles and approaches purely designed to conduct cultural or entertaining work.
- 3- Curriculums and systems of education, organization, management or enforcement.
- 4- Methods of treatment for human or animal by surgery or medicine, and diagnosis curriculums.
- 5- Provision of information.
- 6- Computer software.
- 7- Inventions of purely decorative nature.

Article 8:

Under this Order, patents of invention may not be obtained for the following:

- 1- Plant varieties or animal species, and the pure biological methods to produce plants or animals.
- 2- Inventions of which application in Algeria would be in contrary to the public order or morals.
- 3- Inventions of which use in Algeria would be detrimental to the health and life of people, animals and plants or represent a serious threat to the protection of environment.

Article 9:

The period of a patent of invention shall be twenty (20) years as of the date of filing the application subject to paying the registration and validity maintenance fees in accordance with the applicable legislation.

**Chapter Two
Granted Rights**

Article 10:

The right in a patent of invention shall be for the invention owner or his successors as determined in Articles from 3 to 8 above.

If two persons or more have collectively worked on an invention, the right of ownership thereof shall be shared by them or by their successors being partners in the invention.

An inventor or inventors may be mentioned as inventors in the patent of invention.

If the applicant(s) is not the inventor(s), the application shall be accompanied with a statement in which the applicant(s) proves his right in the patent of invention.

The above indicated statement shall not be required in case the application includes a priority claim for a past filing in the name of the applicant.

The form and methods to prepare the above indicated statement shall be determined through the regulation.

Article 11:

Subject to Article 14 below, a patent of invention shall entitle its owner to the following exclusive rights:

- 1- In case the invention subject matter is a product, the right to prevent others from manufacturing, using, selling, offering for sale, or importing such product without his approval.
- 2- In case the invention subject matter is a method of manufacturing, the right to prevent others from using such method and using the product directly resulting from this method or selling, offering for sale or importing thereof for these purposes without his approval.

A patent owner shall have the right to assign such patent, transfer it to his successors or conclude licensing contracts in this regard.

Article 12:

The rights protected through the patent of invention shall only include activities of industrial or commercial purposes.

These rights shall not include:

- 1- Activities conducted only for scientific research purposes.
- 2- Activities related to the product included in the patent after duly offering this product in the market.
- 3- Using means protected by a patent on board of ships and spaceships, or foreign air or land transportation apparatuses which enter the territorial waters, air domain or national land temporarily or due to an emergency.

Article 13:

Unless an impersonation is judicially proved, the first applicant of a patent of invention or the first claimant of the priority thereof shall be considered the inventor. This capacity shall be transferred, when necessary, to his successors.

Article 14:

If a person, at the time of filing the patent of invention application or the date of the legally claimed priority, has conducted the following in good faith:

- 1- Manufacturing the product or using the method of manufacturing subject matter of the patented invention,
- 2- Serious preparations to initiate such manufacturing or use, he may proceed his work in spite of the said patent of invention.

The right of prior user may only be transferred to the institution, the company, or the branches thereof in which the use or preparation for use has taken place.

Chapter Three Certificate of Addition

Article 15:

The owner of a patent or holder of rights thereof may, as long as the patent is valid, make changes, improvements or additions to his invention while meeting the required procedures to file the application determined in Articles from 20 to 25 below.

These changes, improvements or additions shall be evidenced by certificates to be delivered in the same form of the main patent and have the same effect.

The application for a certificate of addition shall require the payment of the fees determined in accordance with the applicable legislation.

Certificates of addition shall expire when the term of main patent expires.

Article 16:

As long as the certificate of addition has not been delivered, the applicant of such certificate may transform his application into a patent of invention application of which filing date shall be on the same day of filing the application for a certificate of addition.

The patent acquired as a result of the said transfer in the first Paragraph above shall require the payment of the validity maintenance fees as of the date of filing the application for the certificate of addition.

Chapter Four Service Inventions

Article 17:

An invention created by one person or more during the execution of an employment contract that includes an inventive assignment explicitly entrusted to them shall be considered a service invention.

In this case, if a special agreement is not concluded between the user body called "the Body" and the inventor, such Body shall have the right of invention property.

If the Body has explicitly expressed its abandonment of this right, it shall be the right of the inventor.

However, the invention owner shall have the right to be qualified as inventor in accordance with Paragraph 3 of Article 10 above.

The methods to implement the provisions of this Article shall be determined through the regulation.

Article 18:

A service invention shall be the invention created by one person or more using the technologies and/or the tools of the Body under an agreement other than the agreement provided for in Article 17 above.

The methods to implement the provisions of this Article shall be determined through the regulation.

**Chapter Five
Confidential Inventions**

Article 19:

The inventions of interest to the national security or of special influence on the public interest shall be considered confidential without prejudice to the material and moral rights of the inventor.

The methods to implement the provisions of this Article shall be determined through the regulation.

**PART THREE
FILING, EXAMINATION & ISSUENCE**

**Section One
Filing**

Article 20:

Each person who wishes to obtain a patent of invention shall file a written application to the competent authority.

A patent of invention application shall include the following:

- Application form, description of the invention, request or a number of requests, a drawing or a number of drawings, when necessary, and a brief description.
- Documents proving the payment of determined fees.

Unless otherwise is mutually agreed, the applicants residing abroad shall be represented before the competent authority.

The methods to implement the provisions of this Article shall be determined through the regulation.

Article 21:

Regardless of the Provisions of Article 20 above, the date of filing the patent of invention application shall be the date in which the competent authority receives at least the following:

- a- A written application form introducing the applicant and expressing his wish to obtain a patent of invention.
- b- A description of the invention enclosed with one request at least.

However, the international application that has obtained an international filing date under the Patent Cooperation Treaty, which covers Algeria as a country interested in obtaining patents, shall be considered as a patent application filed on its international filing date.

Article 22:

The patent of invention application shall not include more than one invention or a number of interrelated inventions consisting, as a whole, one comprehensive invention.

Such application shall not also include any restrictions, conditions, reservations, limitations or rights entitlement.

An invention shall be sufficiently described in a clear and complete manner that an expert would be able to put it into operation.

The claim or claims included in the invention shall determine the scope of required protection. They should be clear, concise and entirely based on description. The concise description shall be used only for the purposes of benefiting from the technological information.

Article 23:

Each person who wishes to claim the priority of a previous filing for the same invention shall submit a priority statement and a copy of the previous application as per the conditions and dates determined by the regulation.

Article 24:

Each person, who has exhibited an invention in an official international or officially recognized exhibition, may request the protection of this invention and claim priority as from the date of exhibiting the subject matter thereof within the twelve months following the date of closing the exhibition,.

Article 25:

The applicant may, fully or partially, withdraw his application prior to the issuance of the patent of invention.

Article 26:

Prior to issuing the patent of invention and after paying the determined fees, the applicant may correct, if necessary, the material mistakes legally proved in the filed documents.

In case of not paying the required fee or not making the amendments within the determined period, which may be extended when necessary, the patent shall be delivered as it is.

Section Two Examination

Article 27:

After filing is made, the competent authority shall make sure that all conditions related to the filing procedures determined in Section One of Part Three above and in the adopted provisions for implementation are fulfilled.

If the application does not fulfill such conditions, the applicant or his representative shall be called to correct the file within a period of two months. Such period may be extended when necessary upon the request thereof.

The corrected application shall be dated on the first filing date.

In case of not correcting the application file within the determined period, the application shall be deemed as being withdrawn.

Article 28:

The competent authority shall also make sure that the subject matter of the application is not listed in the fields provided for in Article 7, and not naturally excluded from the protection under Articles from 3 to 6 & 8.

The competent authority shall inform the applicant, when necessary, that his application is not patentable.

Article 29:

If it is clear that any application does not comply with the Provisions of Paragraph One of Article 22 above, such application may be divided into several applications where each one of them is dated on the filing date of the original application according to the periods determined by the regulation.

The subject matter of each divided application shall not exceed the content of the original application.

Article 30:

The competent authority may require the applicant, prior to issuing the patent of invention, to provide any information related to any protection document he has requested or obtained in other countries for the same invention he applied for therein.

Section Three Issuance

Article 31:

The patents with proper applications shall be issued without prior inspection or guarantee at the applicants' responsibility, whether related to the invention fact, novelty, merit or the description faithfulness or accuracy. The competent authority shall give the applicant a certificate proving the application's correctness and representing the patent of invention.

The above-indicated certificate shall be attached with a copy of the description, claims and designs after assuring their conformity with the originals thereof, when necessary.

Chapter Four Registration & Publication

Section One Patents Register

Article 32:

The competent authority shall keep a register in which all patents of invention mentioned in Article 31 are registered by their issuance sequence, as well as all processes required to be registered under this Order and the adopted provisions for its implementation.

The methods to keep the register shall be determined through the regulation, and the competent authority shall keep an extract of the numbered and initiated register.

Any person may access the register of invention patents and obtain extracts thereof after paying the determined fee.

Section Two Publication

Article 33:

The competent authority shall issue an official release for patents.

Article 34:

Subject to the provisions of Article 19 above, the competent authority shall periodically publish the patents and work provided for in Article 32 above in the its official release.

Article 35:

The competent authority shall keep the documents of patent description, claims and designs after being published in the release indicated in Article 33 above. Such documents shall be informed

on upon any legal order.

Each person shall have the right to access such documents and obtain copies thereof after paying the relevant entitlements.

The provisions of the previous two paragraphs shall be applicable to the official copies delivered by the applicants who claim the priority of previous filing.

The patent applicant, who claims the priority of filing outside the country, may get an official copy of his application prior to receiving the patent.

Chapter Five Transfer of Rights

Section One Transfer

Article 36:

The rights resulting from the patent's application, patent and/or the related potential certificates of addition shall be wholly or partially transferable.

All details shall be recorded in the contracts comprising ownership transfer, right of use assignment, forfeiture thereof, mortgage or dismortgage related to the patent's application or patent in accordance with the law regulating this contract. These contracts shall be recorded in the patent's register.

The contracts mentioned in the above paragraph shall not be effective towards third party unless they are registered.

Section Two Contractual Licenses

Article 37:

The patent's owner or applicant may grant a third party the license to use his invention under a contract.

The items included in contracts related to the license shall be considered void if they impose on the license purchaser, in the industrial or commercial field, limitations that represent abusive use of the patented rights in a manner that causes detrimental effects on the competition in the national market.

Section Three Compulsory License for Invention Non-Use or Defect

Article 38:

Each person, in anytime after four year from the patent filing date or three years from the patent issuance date, may obtain from the competent authority a use license as a result of not using the invention or a defect therein.

To estimate the term mentioned in the above paragraph, the competent authority shall apply the maximum terms.

The compulsory license shall not be granted unless the competent authority verifies the invention non use or defect and non-existence of circumstances justify thereof.

Article 39:

Each person who applies for a compulsory license shall, in accordance with Articles 38 and 47 herein, prove the submission of an application to the patent owner to get a contractual license that he could not obtain under equitable conditions.

Article 40:

The compulsory license, mentioned in Article 38 above, shall only be granted to the applicant who provides the necessary guarantees regarding a use that will avoid the defect which has led to the compulsory license.

Article 41:

The compulsory license shall be granted in return for appropriate compensation, as may be the case, subject to the economic value thereof.

Article 42:

The compulsory license may be transferred only with a part of the utilized institution or commercial shop. The transfer shall not occur without the approval of the competent authority.

Article 43:

The compulsory license or its transfer shall be registered with the competent authority against specified fee.

Article 44:

The competent authority may amend the decision to grant the compulsory license upon the request of the patent's owner or the beneficiary of compulsory license, and if new events arise that justify such amendment, particularly, if the patent's owner grants contractual licenses with more privileged conditions to the licensor.

Article 45:

Without prejudice to the provisions of the last paragraph of this Article, the competent authority may withdraw the compulsory license upon the request of the patent's owner in the following cases:

- 1) If the conditions that justify granting the compulsory license are no longer exist.
- 2) If the specified conditions are not fulfilled by the beneficiary of the compulsory license.

The competent authority shall not withdraw the compulsory license if convinced of circumstances that justify the continuation thereof, particularly, in the case mentioned in the first point above, where the licensee is using the invention industrially protected by the patent or he has made serious preparations thereof.

Article 46:

The application of patent compulsory license shall be submitted to the competent authority supported by evidences mentioned in Article 39 above.

The competent authority shall invite the patent's owner and the applicant or their representatives to hear from them.

If the competent authority has granted the compulsory license, it shall identify its conditions, term and the required compensation to the patent's owner, unless both parties reach an agreement, without prejudice to the objection before the relevant judicial party that initially and finally decides upon this issue.

The provisions of this Article shall be applicable in case of the transfer of the patent compulsory license in accordance with Article 42 herein.

Article 47:

If the use of patented invention is not possible without prejudice to the rights protected by prior patent, a compulsory license shall be granted to the owner of subsequent patent upon his request.

Such patent shall be granted within the necessary limitations to use the invention, provided that this invention constitutes an apparent technological progress and significant economic interest regarding the invention subject matter of the prior patent.

The owner of prior patent shall have the right in the reciprocal license as per reasonable terms to use the invention subject matter of the subsequent patent.

Article 48:

The compulsory license mentioned in Article 38 shall not be exclusive and shall basically aims at supplying the national market.

Section three

Compulsory License for Public Benefit

Article 49:

The Minister of the Industrial Property may, in any time, grant the compulsory license to a state department or to others nominated by him, for patent application or patent of invention, in the following cases:

- 1) When necessitated by the public interest, in particular, the national security, nutrition, health or developing other national economic sectors, especially, when the prices of patented pharmaceutical articles are different from and higher than the market average prices.
- 2) If a legal or administrative entity considers that the patent's owner or licensee is using the patent in contrary to the competitive rules. If the Minister of the Industrial Property decides that using the patent in implementation of this paragraph permits refraining from this act.

Article 50:

The Articles 43 to 46 and Article 48 shall be applicable in addition to the necessary change to the compulsory license for public benefit.

CHAPTER SIX RIGHTS FORFEITURE

Section One Rights Assignment

Article 51:

The patent's owner may wholly or partially, in anytime, assign one or more claims related to his patent by submitting a written statement to the competent authority.

The methods to implement this Article shall be determined through the regulation.

Article 52: If one of the patents mentioned in the first and second sections of chapter five above has been registered in the patent's register, the patent assignment shall not be registered unless the licensee submits a statement in which he accepts such assignment.

Section Two Nullification

Article 53:

The competent judicial authority shall announce the complete or partial nullification of a claim or more related to the patent upon the request of the concerned person in the following cases:

- 1) If the subject matter of the patent has not been in compliance with the provisions included in Articles 3 to 8 above.

2) If the description of the invention has not been in compliance with the provisions of Article 22 (paragraph 3) above, and if the patent requirements have not identified the required protection.

3) If the invention itself has been a subject matter of a patent in Algeria based on prior application or has benefited from prior filing.

When the nullification decision becomes final, the party who has interest in the expedition shall by the force of the law notify thereof to the competent authority for registration and publication.

Section Three Forfeiture

Article 54:

The patent shall forfeit if the annual validity maintenance fees are not paid in the date corresponding to the date of filing thereof and provided for in Article 9 above.

However, the patent's owner or applicant shall have a period of six months from this date to pay the due fees in addition to a delay fine.

In addition, and upon a justified request from the patent owner to be submitted within no later than (6) months after the expiry of legal term, the competent authority may decide to requalify the patent after paying the due fees and the requalification fee.

Article 55:

If two years expire after granting the compulsory license without discovering the non-use or defect of the patented invention for reasons attributed to the owner, the competent judicial authority may, upon a request from the concerned Minister and after consultation with the Minister of Industrial Property, pass a ruling of the patent forfeiture.

CHAPTER SEVEN RIGHTS & PENALTIES INFRINGEMENT

Section One Civil Actions

Article 56:

Subject to Articles 12 and 14 above, all acts set forth in Article 11 above that occur without the approval of the patents owner shall be considered an infringement of the patent's rights.

Article 57:

All occurrences prior to the registration of a patent application shall not be considered as infringing the patent rights and shall not entail a conviction even a civil one, except for the

occurrences that occur after notifying the suspected counterfeiter with an official copy of the patent description attached to the patent application.

Article 58:

The owner of the patent or his successor may file a lawsuit against any person who has performed or is performing one of the acts in accordance with Article 56 above. If the plaintiff proves the occurrence of an act mentioned in the paragraph above, the competent judicial authority shall decide awarding the civil compensations. It may also order the prohibition of such acts and take any other procedure provided for in the valid legislation.

Article 59:

Notwithstanding the provisions of paragraph 2 of Article 58 above, and until proving the contrary, every identical product manufactured without the approval of the patent's owner shall be considered a product obtained by a patented method, at least in one of the following two cases:

- 1) When the patent subject matter is a method to obtain a new product,
- 2) When there is a large possibility that the identical product has been obtained by the patented method and the patent's owner could not, despite the exerted efforts, explain the used method.

In this case, the judicial authority may order the defendant to provide the evidences to prove that the used method to obtain an identical product is different from the patented method. Moreover, the competent judicial authority shall take into consideration the legal interests of the defendant when approving any required evidences through non disclosure of his commercial and industrial secrets.

Article 60:

The defendant may in any case provided for in Articles 58 & 59 above file a lawsuit of patent nullification through the same proceeding.

**Section Two
Penal Actions**

Article 61:

Every intentional act committed in accordance with the provision of Article 56 above shall be considered a counterfeit misdemeanor.

The counterfeiter shall be penalized by imprisonment for not less than six months and not more than two years and shall be fined for not less than A.D. (2.500.000) and not more than A.D. (10.000.000) or only one of these penalties.

Article 62:

Each person who intentionally hides a counterfeit article or many counterfeit articles, sell thereof, offer for sale or import into the country shall be penalized similar to the counterfeiter.

**PART EIGHT
TRANSITIONAL PROVISION**

Article 63:

The patents issued under the Legislative Decree No. 17-93 dated 23 Jumada II 1414 corresponding to December 7, 1993 with regard to the protection of inventions and the related certificates of addition shall remain subject to the provisions of the same Legislative Decree.

**PART NINE
CLOSING PROVISIONS**

Article 64:

The provisions of the Legislative Decree No. 17-93 dated 23 Jumada II 1414 corresponding to December 7, 1993 related to the protection of inventions shall be cancelled, subject to the provisions of Articles 61 & 62 above.

Article 65:

This Order shall be published in the Official Gazette in the People's Democratic Republic of Algeria.

This has been executed in Algeria on 19 Jumada I, 1424 corresponding to July 19, 2003.

President Abdul-Aziz Bu Tafilika

Order (Act) No. 08-03 dated 19 Jumada I, 1424 corresponding to July 19, 2003 related to the protection of figurative designs of integrated circuits

- By virtue of the Constitution, especially Articles 38, 52, 122 and 124 therein,
- In accordance with Order (Act) No. 66-154 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Civil Procedures Law, as amended and supplemented,
- In accordance with Order No. 66-155 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Penal Procedures Law, as amended and supplemented,
- In accordance with Order No. 66-156 dated 18 Safar 1386 corresponding to June 8, 1966, which includes the Penal Law, as amended and supplemented,
- In accordance with Order No. 75-58 dated 20 Ramadan 1395 corresponding to September 26, 1975 related to the Civil Law, as amended and supplemented,
- In accordance with Order No. 75-59 dated 20 Ramadan 1395 corresponding to September 26,

1975 related to the Trade Law, as amended and supplemented,

- In accordance with Law No. 79-07 dated 26 Sha'aban 1399 corresponding to July 21, 1979, which includes the Customs Law, as amended and supplemented,

- In accordance with Law No. 84-17 dated 8 Shawwal 1404 corresponding to July 7, 1984, related to the Finance Laws, as amended and supplemented,

- Having listened to the discussions of the Council of Ministers

The President of the Republic issues an order that reads as follows:

PART ONE GENERAL PROVISIONS

Article 1:

This Order shall aim at identifying the rules related to the protection of figurative designs of integrated circuits.

Article 2:

The following words herein shall have the meanings indicated against each:

- Integrated Circuit: a product in its final or transitional shape comprising at least one active element, and all correlations or part thereof are an integrated part of a substance and/or surface of a piece of a material, and it is allocated to perform electronic function.

- Figurative Design, equivalent to topography: each three-dimensional arrangement, whatever its form is, for elements at least one element therein is an active one, and all connections of integrated circuit or part thereof, or an arrangement similar to such three-dimensional arrangement prepared for an integrated circuit for manufacturing purposes.

- Owner: the natural or legal person who is considered a beneficiary of the protection specified in Articles 3 & 4 below.

- Competent Authority: the Algerian National Institute for Industrial Property.

Article 3:

Under this Order, figurative designs of original integrated circuits shall be protected. The figurative design shall be considered original if it is the result of the inventor intellectual efforts and has not been circulated among inventors of figurative designs and manufacturers of integrated circuits.

When the figurative design consists of a composition of familiar elements and connections, the protection thereof shall be impossible unless it complies with the conditions set forth in the two previous paragraphs.

Article 4:

The protection given to the figurative design shall only be applicable to the figurative designs of integrated circuits themselves, except for each perspective, method, system, technique or coded information therein.

PART TWO GRANTED RIGHTS

Article 5:

The protection granted under this Order shall entitle its owner to prevent others from performing the following actions without his approval:

- 1) To wholly or partially reproduce the protected figurative design of the integrated circuit, by incorporation in an integrated circuit or by another method, unless it is related to reproducing a part thereof that does not fulfill the originality conditions as specified in Article 3 above.
- 2) To import, sell or distribute in any other form, for commercial purposes, a protected figurative design or integrated circuit of which figurative design includes this circuit, as it still illegally contains the reproduced figurative design.

The owner of the figurative design shall also have the right to assign or transfer it by way of inheritance and license contracts.

Article 6:

The granted protection under this Order shall not include the following activities.

- 1) Reproducing the protected figurative design for special or pure purposes of evaluation, analysis, research or education.
- 2) Incorporating innovative figurative design within an integrated circuit based on this analysis or evaluation, as this design represents by itself the originality in accordance with the provision of Article 3 above, or it is for the purpose mentioned in paragraph 1 above.
- 3) Performing any of the work mentioned in Article 5 (Paragraph 2) above, when it is made on a protected figurative design or integrated circuit comprising a figurative design marketed by the owner or upon his approval.
- 4) Performing any of the work mentioned in Article 5 (Paragraph 2) above on a protected figurative design, integrated circuit comprising illegally reproduced design or any substance includes this circuit, if the person does not know or has insufficient proof to know, when purchasing this circuit or the substance comprising such circuit, that it includes a figurative design illegally reproduced.

However, when that person is completely informed that the figurative design is illegally reproduced, he may proceed any of the above mentioned work on his own inventory or the inventory he has requested prior to his notification thereof. Moreover, he shall pay to the owner of the right a sum of money equal to the reasonable royalty to be requested within the frame of optional contractual license for the same figurative design.

- 5) Performing any of the work mentioned in Article 5 (Paragraph 2), when it is made on a similar original figurative design independently innovated by others.

Article 7:

The effective date of the protection granted to a figurative design under this Order, shall start from the date of filing its registration application or from the date of the first commercial use thereof, anywhere in the world, by the right's owner or upon his approval, if this use is prior to the filing date, provided that such filing is made within the period set forth in Article 8 below.

**PART THREE
FILING & REGISTRATION
Chapter One
The Right of Filing**

Article 9:

The right to file a figurative design shall be of its inventor or its right owner.
If two persons or more have invented a figurative design, the right of filing thereof shall belong to all of them.

Article 10:

If a figurative design is made within the frame of organization contract or employment contract, the right of filing shall belong to the project owner or the employing organization, unless otherwise is provided for in contrary contractual provisions.

**Chapter Two
Filing Formalities**

Article 11:

Each person who wishes to obtain the legal protection for a figurative design shall explicitly request thereof before the competent authority.

Only one application shall be filed for every figurative design.

The formalities to implement the provisions of this Article shall be determined through the regulation.

Article 12:

The filing party residing abroad shall appoint representatives with the competent authority as per the specified conditions by the regulation, other than the reciprocity agreement.

Article 13:

The date to file the application for protecting the figurative design shall be the date in which the competent authority receives at least an application identifying the filing party and his intention to register a figurative design and a copy or drawing thereof.

Article 14:

Each application for protecting a figurative design shall be subject to the payment of charges specified in accordance with the applicable legislation.

Chapter Three Registration & Publication

Article 15:

The competent authority shall keep a register called "Figurative Designs Register" in which all works provided for in this Order and the approved provisions for implementation thereof shall be recorded.

Article 16:

If the application fulfills the required formal conditions, the competent authority shall register the figurative design in the register mentioned in Article 15 above. The registration shall be made without examining the originality, the right of filing party in protection or the correctness of information included in the application. The competent authority shall deliver a registration certificate to the filing party.

The methods to prepare the register shall be determined by the regulation. The competent authority shall keep a numbered and initiated extract thereof.

Article 17:

Each one shall have access to the figurative design register and obtain extracts therefrom in return for charges.

Article 18:

The figurative design and all data recorded in the register shall be published in the official gazette of industrial property.

Article 19:

Each one shall have access to the file of registered figurative design, however; he may not receive any copy thereof without permission from its owner and without payment of the charge specified in accordance with the applicable legislation.

PART FOUR RIGHTS FORFEITURE Chapter One Withdrawal

Article 20:

The filing of a figurative design shall be withdrawn, prior to registration, in any time, under a written statement after paying the charge specified in accordance with the applicable legislation.

Article 21:

The withdrawal permit shall include only one filing to be submitted by the filing party or his legal authorized representative.

Article 22:

If a figurative design is filed in the name of many persons, it shall not be withdrawn unless all these persons request thereof.

If rights are registered, particularly which relate to mortgage or license, in the Figurative Designs Register, the withdrawal permit shall be accepted only if accompanied with a written approval from the owners of this right

**Chapter Two
Assignment**

Article 23:

The owner of a figurative design may wholly or partially assign it upon a signed request sent to the competent authority.

Article 24:

If the figurative design is a property of several persons, the assignment request shall not be accepted unless it is accompanied with a written approval from all owners.

If the rights of mortgage or license comprising a figurative design have been registered in the Register set forth in Article 15 above, the withdrawal request shall not be accepted unless it is accompanied with the written approval of the owners of this right.

Article 25:

The assignment shall be registered, after being accepted by the competent authority, in the Figurative Designs Register, and shall be effective as of the date of this registration.

The withdrawal registration shall be subject to paying the charges specified in accordance with the applicable legislation

**Chapter Three
Nullification**

Article 26:

The registration of a figurative design shall nullify under a judicial ruling:

- If the figurative design is unprotectable as specified in Article 3 above,
- If the filing party is not qualified as innovative under Articles 9 & 10 above.
- If filing has not been made during the period specified in Article 8 above.

Each concerned person may file the nullification action before the competent judicial authority.

Article 28:

If nullification of registration is decided by a judicial ruling with enforcement power, a copy thereof shall be forwarded by the concerned party to the competent authority to register it in the Figurative Design Register.

**PART FIVE
RIGHTS TRANSFER
Chapter One
The Transfer**

Article 29:

The rights associated with the filed figurative design shall be completely or partially transferable.

All details shall be recorded in the contracts comprising ownership transfer, right of use assignment, forfeiture thereof, mortgage or dismortgage related to the figurative design in accordance with the law regulating this contract. These contracts shall be recorded in the Figurative Design Register.

These contracts shall not be of significance towards third party unless after registration.

**Chapter Two
Contractual Licenses**

Article 30:

The owner of a figurative design may grant another person, under a contract, a license to use his figurative design.

The items included in the license related contracts shall be considered void if they impose on the license holder, in the industrial or commercial field, limitations that constitute an abusive use of rights granted herein and have detrimental effects on the competition in the national market.

After recording a contract of figurative design related license, the competent authority shall maintain the content confidentiality and shall only publish a related announcement.

**Chapter Three
Compulsory Licenses**

Article 31:

The Minister of the Industrial Property may, without the approval of the owner, decide that a public entity of a third party appointed by him, use the figurative design in one of the following cases:

- If necessitated by the public interest, especially the national security, nutrition, health or any other vital sectors of the national economy, the use of a protected figurative design for non-commercial public purposes.
- When a legal or administrative authority decides the non- competitiveness of methods by which the owner or the license holder uses the protected figurative design, and when the Minister of Industrial Property is convinced that the use of the figurative design in accordance with this Article would stop such practices.

The license of use shall be specific in terms of content and term based on the subject for which it has been delivered. It shall be basically directed to supply the national market.

This right of use shall not be exclusive. It shall require paying consideration to the owner, taking into consideration the economic value of the ministerial license as specified in the Minister's decision, when necessary, to control non-competitive practices.

Article 32:

The Minister of Industrial Property may, upon a request from the license owner or beneficiary, after hearing the two parties upon the will of both or one of them, change the license decision to use the figurative design according to the circumstances.

Article 33:

The Minister of Industrial Property may, upon a request from the owner, withdraw the compulsory license:

1. If the conditions that justify granting the compulsory license are no longer exist.
2. If the beneficiary of compulsory license does not fulfill the determined conditions.

Notwithstanding the previous provisions of Paragraph 1 above, the Minister of Industrial Property shall not withdraw the license if he is convinced that protecting the legal interests of the license beneficiary justify its validation.

Article 34:

If any other person has been appointed in accordance with Article 31 (Paragraph 1) above, the compulsory license shall be transferred only with the institution of license beneficiary or the party of the institution where the figurative design is used.

PART SIX RIGHTS INFRINGEMENT & PENALTIES

Article 35:

Any infringement to the rights of the figurative design owner shall, as specified in Articles 5 & 6 above, be considered a counterfeit misdemeanor, and shall entail the civil and penal liability.

Article 36:

Each person who intentionally infringes these rights shall be penalized with imprisonment for not less than six months and not more than two years and shall be fined for not less than A.D. (2.500.000) and not more than A.D. (10.000.000) or one of these penalties.

The court may additionally order the suspension of ruling where it deems appropriate and shall completely or partially publish it in the newspapers selected by it at the convict expense.

Article 37:

The court may, in the case of conviction; order to damage the products subject matter of the misdemeanor or put them out of commercial circulation, and confiscate the equipments used in manufacturing thereof.

Article 38:

Subject to Article 8 above, the activities prior to filing shall not require any lawsuit under this Order.

The activities posterior to filing but prior to publication shall not require any civil or penal lawsuit, unless the party incurring damages proves the bad faith of the perpetrator.

Any action, whether civil or penal, shall not be filed prior to publication of filing. If events are subsequent to publishing the registration, the perpetrators may display their good faith subject to proving thereof.

Article 39:

The party incurring damages may, even prior to the publication of registration by a judicial report, make a detailed description of seizure or non-seizure of articles or tools subject matter of the misdemeanor under a petition from the Presiding Judge of the competent court and based on a petition subject to a registration certificate.

Article 40:

When the seizure is requested, the judge may order the applicant to pay a bail.

Article 41:

The description or seizure shall be considered invalid if the applicant does not file a civil or penal action within one month of the description or seizure date, without prejudice to damages' compensation.



ALGERIA

**PART SEVEN
CLOSING PROVISION**

Article 42:

This Order shall be published in the Official Gazette of People's Democratic Republic of Algeria.

This has been executed in Algeria on 19 Jumada I, 1424 corresponding to July 19, 2003.

Abdul-Aziz Bu Taflika