

**OUTLINE OF THE PATENT LAW No. 64/1991**Published Monday 21<sup>st</sup>, 1991

- Applicant**
- Inventor or his legal successor (individuals, firms and companies). Nationals and nationals not living in the country/foreigners shall/may appoint a local professional representative.
- Naming of inventors**
- compulsory.
- Notion of invention**
- The subject matter of the invention must be novel, resulting from an inventive activity and susceptible to an industrial use.
- Kinds of invention**
- 1. patent of invention
  - 2. patent of improvement
- Categories**
- Patents covering a product (including chemicals and pharmaceutical), a machine or device, a process or method (including diagnostic and treatment).  
The inventions having as object a new variety of plant, hybrid or a new variety of animal is patentable providing they are new, distinct, homogeneous and stable.
- Novelty**
- Not disclosed in the prior art taking into consideration all knowledge prior to the filing or to the priority date.  
A grace period of 12 months is allowed if such a divulgation is made by the inventor or by his legal successors.
- Not patentable**
- Inventions contrary to the public order and public morals.  
There are not considered as patentable inventions ideas, discoveries, scientific theories, mathematical methods, computer programs per se, solutions having an economic or organizational character, diagrams, educational and teaching methods, game rules, urban systems, systematization plans and methods, physical phenomena per se, culinary recipes, aesthetic features.
- Priority**
- The priority rights shall be claimed at filing or within a grace period of two months from the application date at the latest.  
One or more partial priorities may be claimed.
- Requirements**
- Minimal:
    - a) Application form containing explicit information as to the inventor(s), applicant(s) and subject matter.
    - b) Invention disclosure (in some grounded cases it may be filed in an international language)  
Claims and explanatory drawings as well as Romanian translation of the disclosure already filed in an international language shall be filed within two months from the filing date.

If priority is claimed indication of country, date and file number of basic foreign application(s) are to be mentioned in the application form. Priority document(s) to be filed within 3 months from the filing date.

### **Publication**

- Patent applications will be published immediately after expiration of 18 months from filing or priority date, with the exception of the secret invention (National defense) or the application for which granting, rejection or withdrawal decision has been issued before 18 months term. Publication may be urged upon applicant request. Publication may be accompanied by the documentary report however it can be published at a later date.

### **Examination**

- Request for examination may be filed concomitantly with the application or may be deferred for maximum 30 months from the filing date. Failure of filing of the request for examination within the prescribed term of 30 months leads to rejection. The application is examined as to the form and unity of invention, novelty and patentability. The Patent Office is entitled to request all the documents and explanations which are considered requisite for fulfillment of the patentability conditions. Upon the Patent Office request by a voluntary action, the applicant or his legal successor may amend the claims drawings and/or disclosure without exceeding initial ranges.

### **Granting or Rejecting**

- Decisions will be taken by an Examination Commission within a term of 18 months from the filing of the request for examination. Granting Decisions are published within 30 days; disclosure, claims and drawings of the patented invention are published within 3 months at the latest. The Patent Office Decision may be appealed within a 3 months term from the communication thereof. Any third party is entitled by a written and well-grounded request to ask for a partial or total cancellation of the Granting Decision within 6 months from the publication thereof. Appeal or cancellation request will be examined within 3 months from filing by a Reexamination Commission.

### **Duration**

- 20 years from the date of the complete deposit; for the improvement Patents the duration is the same as the basic Patent but not less than 10 years.

### **Rights and Obligations**

- The Patent confers to the applicant an exclusive right to use and to forbid the third parties making, selling, offering or sale, using and importing or storing in view of offering for sale or using thereof.

### **Fees**

- Art.47 provides that the official fees in duty of the foreign physical or juridical persons are to be paid in US currency into the Patent Office account.

**Compulsory License** • On request of the interested party, the Bucharest Municipal Court may grant a Compulsory License after lapse of a 4-year period from the filing of the patent application or 3 years from the issue of the Letters Patent, whatever lapsing the latter.  
The Compulsory License is granted only if the invention has not been sufficiently exploited and the applicant cannot justify his inactivity.

**Ex-officio License** • a) Patents issued in the Public Health field:  
Upon the Ministry of Health request and ex-officio license may be granted by the Bucharest Municipal Court if not sufficiently exploited.

b) Patents issued in the National Economy field:  
The competent Ministry may issue a one-year summon in order to put into a sufficient exploitation a particular invention.  
If the one-year term elapses without a sufficient exploitation and that inactivity brings grave prejudices to the National Economy, an ex-officio license may be granted by a Governmental Decision.

c) Patents issued in the National Defense field:  
Upon the Ministry of National Defense request, an ex-officio license may be granted by a Governmental Decision. (In this case no provision of non-exploitation or insufficient exploitation is invoked).

**Royalties** • The royalties for ex-officio licenses for all points (a), b) and c)) of above are set on a mutual agreement basis in case of divergences by the Bucharest Municipal Court.

**Counterfeiting** • Art.59 defines the infraction or counterfeiting as making, using, putting into circulation of a patent without having the right or another infringement act of the rights conferred by the Patent; the punishments are also provided.