

MONGOLIA

Exceptions and limitations to patent rights

Under Article 18.2 of the applicable law, the following exploitation of the invention or industrial design protected by the patent or utility model protected by the certificate shall not be regarded as an infringement of the exclusive rights of the patent or certificate owner:

18.2.1. the use of products put on the market in the country by the patent owner or by another person with the patent owner's consent;

18.2.2. the use for scientific research, education or experimental purposes;

18.2.3. the use on vehicles of other countries which temporarily or accidentally enter the territory of Mongolia;

18.2.4. the use for non-profit purposes.

Article 20 of applicable law, Compulsory License:

20.1. Protected inventions, industrial designs or utility models may be exploited on the basis of a compulsory license by the decision rendered by the Intellectual Property Office and upon request of any interested person in the following cases:

20.1.1. where an invention, industrial design or utility model should be exploited for the purposes associated with the public interests such as national security or defense, food supply or health care;

20.1.2. where a creation has not been exploited for a period of 3 years from the date of the granting of the patent, provided that the patent owner has not been able to prove to the Intellectual Property Office the absence of conditions to exploit the creation;

20.1.3. where a patent owner considers that the exploitation by a licensee of an invention protected by a patent involves unfair competition.

20.2. Where a patent or utility model certificate owner disagrees with a decision of the Intellectual Property Office to give a compulsory license he may lodge a complaint with a court.

20.3. When a compulsory license agreement is concluded, the licensee shall make a payment to the patent or certificate owner for the exploitation of a creation protected by the patent or certificate.

In practical, a compulsory license has not been granted yet.

Updated information:

Prior Art-

Everything made available to the public before the filing date.

The applications filed prior to the filing date of the invention and information on protected inventions and utility models in Mongolia.

Novelty-

A product or industrial process shall be regarded as “new” if it is not anticipated by the prior art.

The disclosure of matter constituting an invention shall be taken not to occur prior the filing date of the application.

Sufficiency of Disclosure-

The description of the invention shall state essential features of the solution for which the invention is claimed and the relevant prior art, and disclose the invention in a manner sufficiently clear and complete so as to enable a person skilled in the art to practice it, and shall indicate the best mode known of carrying out the invention.

Opposition system and other administrative revocation and invalidation mechanisms

Mongolia provides opposition mechanisms in the patent system, generally, pre-grant opposition is used. The IPOM publishes its intention to grant the patent on the claimed invention and provides 3 months to file an opposition. If no opposition is filed during the period, the patent will be granted.

Article 13 of the applicable law. Grant of Patent for Invention

13.1. A patent shall be granted if, within 3 months from the date of publication of the claim(s) of an invention or the drawing of an industrial design and the bibliographical data concerned, no opposition has been filed with the Intellectual Property Office or no dispute has been arisen.

13.2. Where an opposition is filed or a dispute arises during the period referred to in Article 13.1 of this Law, a grant of the patent shall be suspended until a decision thereon has been rendered in accordance with established procedure.

13.3. Where an opposition is filed by a natural or legal person or a dispute arises, a collegial body constituting of three examiners, not including the first examiner but giving him an opportunity to justify his decision, and a chief examiner of the Intellectual Property Office shall, within 30 days from the date of receipt of the complaint, review and rule on the matter.

13.4. An appeal against the decision referred to in Article 13.3 of this Law may be lodged with the Dispute Resolution Board under the Intellectual Property Office.

13.5. Patents granted for inventions and industrial designs shall be registered in the State Register and applications shall be kept in the patent collection.