

Updated information on Industrial Property Act of the Kingdom of Bhutan 2001

(a) Certain Aspects of National/Regional Patent Laws

1) Prior Art

Everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.

2) Novelty

The invention is not anticipated by prior art. Prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.

3) Inventive Step (Obviousness)

The invention is not obvious to a person having ordinary skill in the art in regard to the prior art relevant to the application claiming the invention. Prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.

4) Grace Period

Disclosure to the public of the invention shall not be taken into consideration if it occurred within twelve months preceding the filing date or, where applicable, the priority date of the application, and if it was by reason or in consequence of acts committed by the applicant or his predecessor in title or of an abuse committed by a third party with regard to the applicant or his predecessor in title.

5) Sufficiency of Disclosure

The description 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, and shall, in particular, indicate at least one mode known to the applicant for carrying out the invention.

6) Exclusions from Patentable Subject Matter

- i. discoveries, scientific theories and mathematical methods;
- ii. schemes, rules or methods for doing business, performing purely mental acts or playing games;
- iii. methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body;

- iv. Inventions, the commercial exploitation of which would be contrary to public order or morality, shall not be patentable.

7) Exceptions and Limitations of the Rights

- i. acts in respect of articles which have been put on the market in Bhutan by the owner of the patent or with his consent; or
- ii. use of articles on aircraft, land vehicles or vessels of other countries which temporarily or accidentally enter the airspace, territory or waters of Bhutan; or
- iii. acts done only for experimental purposes relating to a patented invention; or
- iv. acts performed by any person who in good faith, before the filing or, where priority is claimed, the priority date of the application on which the patent is granted, was using the invention or was making effective and serious preparations for such use in Bhutan.
- v. Exploitation by Government or Person thereby Authorized when
 - the public interest, in particular, national security, nutrition, health or the development of other vital sectors of the national economy so requires; or
 - a judicial or administrative body has determined that the manner of exploitation, by the owner of the patent or his licensee, is anticompetitive, and the Minister is satisfied that the exploitation of the invention in accordance with this subsection would remedy such practice.

(b) National and regional laws on opposition systems and other administrative revocation and invalidation mechanisms

(i) Invalidation

- Any interested person may request the Court or the Registrar to invalidate a patent.
- The Court or the Registrar shall invalidate the patent if the person requesting the invalidation proves that any of the requirements of Section 4(2) and (3), Section 5 and Section 7(3), (4) and (5) are not fulfilled or if the owner of the patent is not the inventor or his successor in title.
- Any invalidated patent, or claim or part of a claim, shall be regarded as null and void from the date of the grant of the patent.
- The final decision of the Court shall be notified to the Registrar who shall record it and publish a reference thereto as soon as possible.