



Facilitated access to Iranian patent information



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A B S T R A C T

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Until recently, the published patent information from the Iranian Patent Office was rather limited. There were no open-to-public databases or gazettes for Iranian patents. The only official statistics available on Iranian patents were the number of filed applications and granted patents in each year, published by the national Patent Office. Lately, however, there has been major progress as the Office has launched its first ever on-line searchable patent database.

This paper gives a general overview of patent disclosure as specified in Iranian patent law and regulations. It then describes what used to be the only way to access patent bibliographic data in Iran. Next, it highlights the new promising initiative and introduces the new online database of the Iranian Patent Office and its search features. Finally, the paper looks at some recent policy initiatives and argues that the Iranian Patent Office is about to experience a major transition to a more efficient organization. Inter alia, this could pave the way for improved and timely access to accurate information on the patents registered in the country.

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1. Introduction

Economists most often refer to patent disclosure as one of the most important economic rationales for the patent system as it helps technological information better to disseminate and accelerates the growth of productivity in the economy [1]. It also stimulates others' future innovation as they can put it into practice when the patent term expires. Others can also design around, improve upon, or be inspired by the invention both during and after the patent term [2]. This is, inter alia, why in many developed countries "encouraging disclosure" has played a pivotal role in shaping their patent law whereby patent applications are required to be published eighteen months after their filing.

Patent disclosure has also been the subject of substantial academic research in many countries; however, relatively little is known about public disclosure of Iranian patents. Although there have been a few studies of Iranians patenting activities abroad – mostly in the US, until very recently, there had been no attempt to undertake an in-depth investigation into patents registered in the Iranian Patent Office [3–5]. The reason was that the Iranian Patent Office did not have an official website and hence no detailed information or statistics on the status of patenting in Iran could be obtained [6]. The only official statistics available on Iranian patents has been the numbers of filed applications and granted patents in

each year as provided by the Patent Office. The office used to report the same numbers to World Intellectual Property Organization (WIPO) and, therefore, the data was also accessible through WIPO's country-specific statistical profiles. Since there were no further details beyond the annual numbers of filed applications and granted patents, it has been very hard to conduct any detailed study on patenting activities and trends in Iran.

Until 2008, the country's patent system was declaration-based, and hence the applications were registered without examining whether the grant of which was justified on substantive grounds. In 2008, the "Patent and Trademark Registration Act", which was enacted in 1931, gave way to a new law to cope with the fast pace of technological changes and facilitate the country's scientific and technical progress. Art. 13 of the new "Patent, Industrial Design and Trademark Registration Law" of Iran (herein after referred to as Iranian Patent Law) required the Patent Office to examine the applications with respect to their compliance with the patentability requirements [7]. This, however, was a really challenging task for the Office due its lack of infrastructures and expertise required for examination [8]. The Iranian Patent Office, in an attempt to comply with this legal requirement started to send patent applications to universities, research centers, and science and technology parks, asking them to comment on the novelty, inventive step and industrial applicability of those applications. This examination structure more resembles that of traditional scientific peer review rather than the internationally accepted process of patent examination [9].

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As the new law came into force, the patenting cost increased drastically- especially for legal persons. The increase in the cost of patenting and the introduction of the above noted examination process appear to have contributed to a significant decreasing trend in the number of patents filed and granted per year beginning from 2008, so that the number of annual filed and granted patents dropped by almost half in the subsequent two years [10]. Summaries of these statistics do not seem to have been supplied to WIPO since 2008 – see Fig. 1 [11]. The Fig. 1 also shows that patent filings experienced a period of strong growth before the patent system reform.

The remainder of this paper is structured as follows: Section 2 gives a general overview of patent disclosure as specified in Iranian patent law and regulations; Section 3 describes what used to be the only way to access patent bibliographic data in Iran; Section 4 explains some of the recent promising developments in terms of online access to patent data and, more specifically, introduces the new online database of Iranian Patent Office; Section 5 looks at some recent policy initiatives for improving the country's patent system; Section 6 concludes.

2. Disclosure in the patent law

As required under Article 6 (C) of Iranian Patent Law “The claims indicated in the application shall be clear and concise and shall be accompanied by a description in a manner that it is sufficiently clear and complete for a person having ordinary skills in the art.” Article 10 of the executive regulation of the same law emphasizes that “description of invention shall be extensive and contain perfect details” and adds that “it should present the solution for the technical problem with accurate and sufficient description of the invention”. The regulation adds that figures, plans, diagrams, if applicable, “should be explained in such a manner that an expert can understand and find relation of its components in that field.” Article 11 (2) of the same regulation requires that claims shall be precise and definite and “not exceed the information disclosed in the description of the invention and should be supported by and documented in the description” [7,12].

On the other hand, Article 54 of Iranian Patent Law makes it clear that “the data appearing in the Registers shall be accessible to all persons, and any person may obtain his required information under the conditions as prescribed in the Regulations” [7]. Surprisingly, the Executive Regulation of this law (Article 168) limits the scope of publicly available information only to “the primary information relating to inventions” and lists the following items (Article 31) to be included in the patent Register: (1) Number and

date of filing; (2) Number and date of grant; (3) Name, address and nationality of inventor(s); (4) Name, address and nationality of the applicant(s); (5) Name and address of the legal representative of the inventor; (6) Title of invention; (7) International Patent classification (IPC) of invention; (8) Date and number of priority claimed; and (9) Term of protection. Article 168 of the executive regulation indicates that “the registration authority can electronically present the records relating to inventions, industrial designs and the registered marks through the contracting institutes. In this case, the applicants shall pay costs stipulated in these contracts for receiving the required services” [12].

While according to a widely accepted element of modern patent systems, applications are published promptly after the expiration of 18 months from their filing date (or priority date if there is one), Article 28 of the Executive Regulation of the Patent Law gives the patent office a 6 month window to examine the application, notify the applicant and publish a reference to the grant of the patent in case of its approval. In other words, “the primary information relating to inventions” will appear in the Official Journal up to six months from the date of filing. In practice, however, many applications are published in the first month or two after filing. It means that the period of secrecy, which gives applicants an opportunity to obtain a temporary advantage over their competitors, is much shorter in Iran [13].

The above referred provisions of law clearly show that the information disclosure function of the patent system has been important to the Iranian lawmakers. However, as further discussed later in the present paper, the Iranian patent system has, in practice, largely failed in its ascribed function of patent disclosure until recently.

It is important to note that although Article 13 of the Iranian Patent Law clearly requires the Patent Office to examine all the filed patent applications to see if the patentability requirements are duly fulfilled, in practice the office has not yet managed to implement an efficient examination process. In the absence of a standard examination procedure, one may question the breadth and depth of the disclosed information as it may not be really enabling or accurate in describing the claimed scope of protection [13]. It would be also very difficult for the applicants to self-assess the patentability of their claimed inventions and to draft their claims properly. Accordingly, in a situation where there is no guarantee of applications being really enabling, even in the case of full disclosure of the patent information provided, the disclosure function of the Iranian patent system could not be fulfilled fully.

3. The traditional access point

Until recently, the Iranian Patent Office did not publish patent information in the manner of most other countries. The Office had no open-to-public databases and did not publish special gazettes for Iranian patents. Having known this, the only avenue for the general public to gain access to the country's patent data used to be the “Iranian Official Journal,” since the Patent Office asks each applicant to publish an advertisement in the Official Journal before issuing the grant certificate. However, each patent record in the Official Journal, which is published in Persian, only includes partial bibliographic information. The word “partial” is used since the patent advertisements in the Official Journal lack some of the most basic elements of patent bibliographic data. For instance, while Article 31 of the Executive Regulation requires the Patent Office to publish the IPC code of the registered inventions, the Office has not done so [12]. In other words, IPC codes have never been published in the patent advertisements of the Official Journal. Fig. 2 shows a patent advertisement as it appeared in the Official Journal along with its English translation.

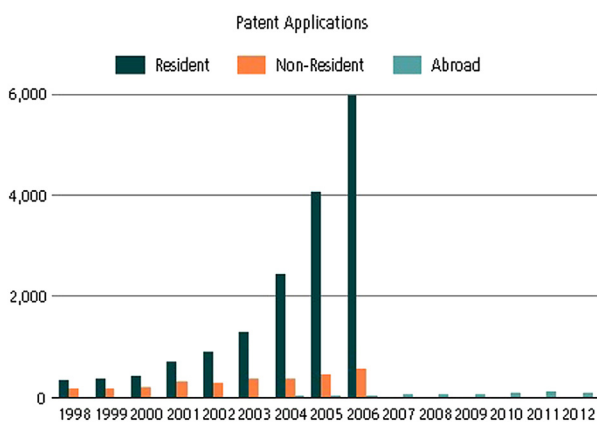


Fig. 1. WIPO statistics on the number of patent applications filed in Iran. Source: WIPO statistics database

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