

The Iranian patenting system: An introduction

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Abstract

The history of the Iranian patent law and its up coming changes are described. A short description of the official structure of the Iranian patent office and the procedures for getting an Iranian patent are also described. The status of patenting in Iran is discussed using some recent statistics on the number of filed and granted Iranian patents to resident and non-resident applicants. The accessibility of Iranian patent information and the status of the patent professions are reviewed. Finally, the changes that are currently taking place, and which are expected to change the overall picture of intellectual property rights (IPRs), in Iran, are outlined. IP-considerations in Iran's Development Plans have been presented in this respect, to show the orientation of the Iranian officials in IPRs policy making. © 2007 Elsevier Ltd. All rights reserved.

Keywords: Iran; Patent office; Filing; New patent law; Development plans; Statistics; Patent information; Patent professions; Appeal; Opposition; Enforcement

1. Introduction

Patenting has a rather long history in Iran. The first Iranian “*patent and trademark*” laws date back to 1924 and 1931. The government approved the by-law concerning its enforcement in the same year (1931) and it was modified in 1958. The law, in its time, was a modern one but it has not been updated yet. Regarding the rapid developments in the field of patenting law and practices, the present law is facing serious deficiencies coping with the complications of this new era. Recently, modification of the old law is being considered [1].

The Iranian patent and trademark office is known as “The Administration for The Registration of Industrial Properties” (ARIP) in the country. This administration is a part of “The Registration Office for Companies and Industrial Property” affiliated to “The Registration Organization for Deeds and Properties of Iran (RODP)”. The whole system is under the supervision of the Iranian Judiciary System (see Scheme 1) [2].

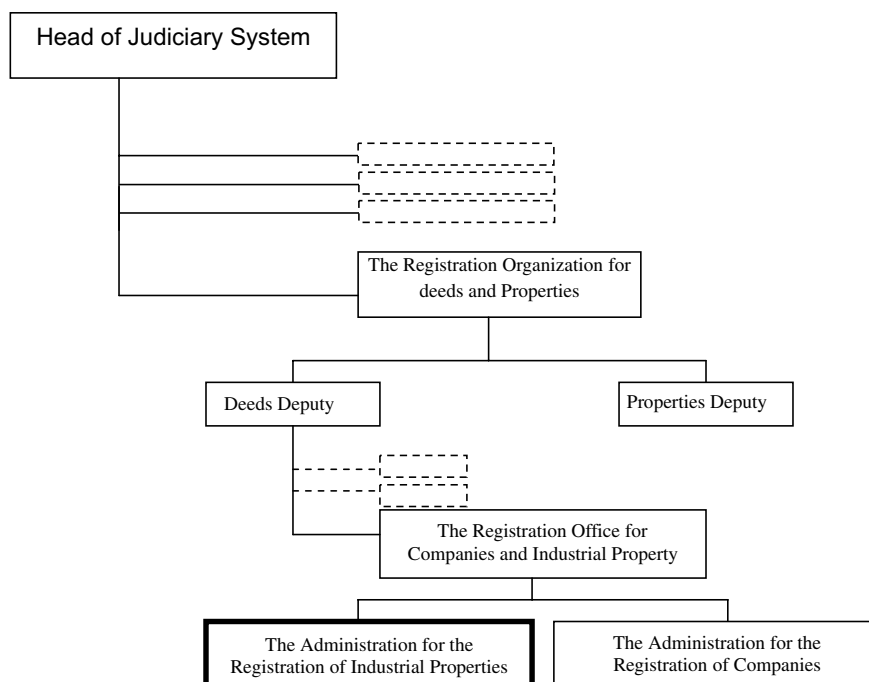
2. Patenting law and procedures

The general procedure for obtaining an Iranian patent is shown in Scheme 2. According to the current law, the patenting system in Iran is declaration based and the first person, who applies for the registration of an invention, shall be considered the inventor for that particular invention, unless proved otherwise.

Although the system is declaration based, the subject matter is first searched in a database, which can exclusively be accessed by ARIP and is confined to Iranian patent information. As a next step the inventor will have to defend the “scientific validity” of his invention in an oral proceedings session, in which experts from the ARIP and Iranian Research Organization of Science and Technology (IROST) participate. In this session, which is held for all applications, the scientists and experts present, decide on whether or not the subject matter of the invention is new, only based on their scientific background (and not based on a prior art search).

It is noteworthy that, although the Iranian patenting system does not include a full substantive examination, statistics show a 50% chance for an application to be granted.

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Scheme 1. The structure of the Iranian administration for the registration of industrial properties.

Fig. 1 shows the number of applications (White bars) versus the granted patents (Black bars) in the period between 1998–2005 [3]. This figure shows the high fatality rate of applications due to the formality checks and oral proceedings.

Iranian patents are granted for 10, 15, or a maximum period of 20 years. The inventor, based on the official charges born for each period, decides the length of the period. However, because the difference in the charges is not very much, almost everyone chooses the longest protection period namely 20 years. The owner of the patent shall have the exclusive rights of production, sale and utilization of the subject of patent.

According to the same law any person can apply for a patent for: (1) a new industrial product; (2) a new means or method based on existing ones to solve an existing problem. The invention as stated by the law, should be absolutely novel, which means that it should not have been published or utilized in Iran or abroad before the date of application for the patent.

A patent may not be applied for, in the following cases: (1) financial schemes; (2) a new invention or the development of an existing invention harmful to public law and order, or public health or morality; and (3) pharmaceutical formulae or compounds.

The application for registering a patent must have a detailed description of the invention, and drawings if necessary for comprehension of the invention. The application for registration of a patent must be made in Persian. However, if it is not practicable for the applicant to prepare it in Persian, he may prepare the complete specification in either French or English, and annex its summary in Persian [1].

After filing and convincing the experts in the oral proceeding, the administration will ask the applicant to publish an advertisement in the “Iranian Official Journal” comprising the following points: Title of the invention, Registration number of the patent, validity period of the patent, name and complete address of the applicant. The “Iranian Official Journal” is published in Farsi. After this stage the patent is granted to the applicant. Fig. 2, shows a granted Iranian patent (note that the patent is in Farsi). Scheme 2, also shows the general procedure for getting an Iranian patent [1].

3. Appeal, opposition and enforcement

3.1. Appeal

If the patent application is rejected during the grant process, the reasons must be clearly stated by the administration. In such a case, the applicant may file a petition before the “First Instance Court of Tehran” within ten days from the date of rejection of his application. The court’s verdict is also subject to appeal to a higher (supreme) court.

The day of session will be fixed by the court, and will notify the applicant, as well as the officer in charge of the ARIP, so that they present themselves on the specified day. The applicant may apply for an extension of time not exceeding 6 months. On the day of the session, the Court will hear the oral arguments of both parties, and will render the appropriate verdict. The non-attendance of either party will not hinder the issuance of the verdict. In this case, the verdict against the absent party will be deemed as pronounced in his presence [1].

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