

On inventions in the USSR • Legislation reference book "Science, Legislation and Law"

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UNION OF SOVIET SOCIALIST REPUBLIC

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ABOUT INVENTIONS IN THE USSR

I. Invention and its legal protection

Article 1. Conditions of patentability of an invention

1. An invention is granted legal protection if it is new, has an inventive step and is industrially applicable.

An invention is new if it is not known from the prior art.

An invention has an inventive step if it does not clearly follow from the state of the art for a specialist.

The state of the art is determined by all types of information publicly available in the USSR or foreign countries prior to the priority date of the invention.

An invention is industrially applicable if it can be used in industry, agriculture, health care and other sectors of the national economy of the country.

2. The objects of inventions may be a device, method, substance, strain of a microorganism, cell culture of plants and animals, as well as the use of a previously known device, method, substance, strain for a new purpose.

3. Not recognized as inventions:

scientific theories;

methods of organization and management of the economy;

conventions, schedules, rules;

methods of performing mental operations;

algorithms and programs for computers;

projects and layouts of structures, buildings, territories;

proposals relating only to the appearance of products, aimed at satisfying aesthetic needs.

4. Inventions containing information, the disclosure of which may damage the security of the USSR, must be classified in accordance with the procedure established by the Cabinet of Ministers of the USSR.

Article 2. Authorship for an invention

1. The author of an invention is a citizen whose creative labor it was created.

If an invention is created by the joint creative work of several citizens, all of them are recognized as co-authors of the invention. The procedure for using the rights to an invention created in co-authorship is determined by an agreement between the co-authors.

2. Citizens who did not make a personal creative contribution to the creation of an invention, who provided the author only with technical, organizational or material assistance, or who contributed to the registration of rights to the invention and the use of the invention are not recognized as co-authors.

3. The author of the invention belongs to the right of authorship, which is an inalienable personal right. The authorship of an invention is protected for an indefinite period.

Article 3. Legal protection of the invention

1. The right to an invention is protected by the state and certified by a patent.

2. A patent for an invention certifies: the authorship of the invention, the priority of the invention and the exclusive right to use the invention.

3. A patent for an invention shall be valid for 20 years, counting from the date of receipt of the application by the State Patent Office of the USSR (State Patent of the USSR).

4. The scope of legal protection provided by a patent is determined by the claims. The description and drawings are only for the interpretation of the claims.

5. The effect of a patent issued for a method of obtaining a product also applies to a product directly obtained by this method.

In this case, a new product is considered to be obtained by a patented method in the absence of evidence to the contrary.

6. Legal protection as inventions is not granted to decisions that are contrary to public interests, principles of humanity and morality.

Article 4. Patent holder

1. A patent for an invention is issued:

the author of the invention;

a citizen or a legal entity (if there is a contract), which is indicated by the author of the invention in the application for the grant of a patent or in the application filed with the USSR State Patent before the invention was entered into the State Register of Inventions of the USSR;

the heir to the author of the invention;

The State Fund of Inventions of the USSR, if the exclusive right to use the invention is transferred by the author to the state.

2. A patent for an invention created by an employee shall be issued to an employer if an appropriate agreement has been concluded between them. This agreement, along with the assignment of the right to obtain a patent, defines the employer's obligations to ensure the conditions of a material, industrial and social nature (including pension and housing) necessary for the effective creative activity of the employee, and to pay him, in case of creation of inventions, the remuneration provided for by this Law. The contract is concluded in relation to inventions created as a result of solving specific problems in accordance with the tasks issued to the employee. The author of such an invention is entitled to a royalty-free non-exclusive license.

If the specified agreement has not been concluded between the employee and the employer, the patent is issued to the author of the invention. The employer has the right to use this invention on the terms determined by the license agreement.

Article 5. Exclusive right to use the invention

1. The exclusive right to use the invention belongs to the patent owner.

2. The exclusive right to use the invention provides the patent holder with the opportunity to use the invention at his own discretion, if this does not violate the rights of other patent holders, as well as prohibit the use of the invention in cases that contradict this Law.

No one can use an invention for which a patent has been granted without the consent of the patent owner.

The patentee must use the rights granted by the patent without prejudice to the interests of the state and society.

3. Unauthorized manufacture, use, import, offer for sale, sale and other introduction into economic circulation of a product containing a patented invention, as well as the use of a method protected by a patent, shall be deemed to be a violation of the rights of a patent holder.

Article 6. Actions not recognized as a violation of the exclusive right to use the invention

It is not recognized as a violation of the exclusive right to use the invention:

the use of means containing inventions protected by patents on board sea or river vessels of other countries, in the ship's hull, in machines, rigging, mechanisms and other equipment when these vessels are temporarily or accidentally in the waters of the USSR, provided that these means are used exclusively for the needs of the vessel;

the use of means containing inventions protected by patents in the design or during the operation of air, space or ground vehicles of other countries or auxiliary equipment for these means, when these vehicles are temporarily or accidentally located on the territory of the USSR.

These actions are not recognized as a violation of the exclusive right to use the invention if sea or river vessels, aircraft, space or land vehicles belong to citizens or legal entities of countries that grant the same rights to citizens and legal entities of the USSR;

scientific research or experiment on a product containing an invention protected by a patent;

one-time preparation of medicines in pharmacies according to doctor's prescriptions;

the use of means containing inventions protected by patents in natural disasters, catastrophes, epidemics and other emergencies;

the use of funds containing inventions protected by patents, privately, without commercial purposes;

the use of funds containing inventions protected by patents, if these funds are introduced into economic circulation in a legal way.

Article 7. Right of prior use

Any citizen or legal entity who, prior to the priority date of an invention protected by a patent, and regardless of its author, created and used on the territory of the USSR a solution identical to the invention or made the necessary preparations for use, retain the right to further free use without expanding its scope.

The right of prior use can be transferred to a citizen or legal entity only in conjunction with the production in which the use took place or the necessary preparations were made for it.

Article 8. Application for the grant of a patent for an invention

1. An application for the grant of a patent for an invention (hereinafter referred to as an application for an invention) is filed with the USSR State Patent:

by the author of an invention, including in the case of a patent application addressed to the USSR State Fund for Inventions;

the employer in the presence of the conditions provided for by the first paragraph of paragraph 2 of Article 4 of this Law;

a citizen or a legal entity to whom the author or employer will transfer on a contractual basis their right to file an application or to whom it has passed in accordance with the legislation on inheritance.

An application for an invention can be filed through a patent attorney registered with the USSR State Patent Office.

2. If, in the presence of the conditions provided for in paragraph 1 of paragraph 2 of Article 4 of this Law, the employer, within three months from the date of notification by its author of the created invention, does not file an application for an invention, the author has the right to file an application and receive a patent in his own name. In this case, the use of the invention by the employer shall be carried out in the manner specified in the second paragraph of clause 2 of Article 4 of this Law.

3. Citizens and stateless persons living outside the USSR, or foreign legal entities permanently located in foreign countries, or their patent attorneys conduct cases in the USSR to obtain patents for inventions and maintain them in force through Soviet patent attorneys registered in State Patent of the USSR.

4. An application for an invention must relate to one invention or a group of inventions related to each other so that they form a single inventive concept (requirement of unity of invention).

5. An application for an invention must contain:

application for the grant of a patent indicating the author (co-authors) of the invention and the applicant, as well as their place of residence and location;

a description of the invention disclosing it in sufficient detail to carry it out;

claims of the invention expressing its essence and completely based on the description;

drawings and other materials, if they are necessary to understand the essence of the invention;

essay.

An application for an invention (if the author does not apply for a patent in the name of the State Fund of Inventions of the USSR) must contain a document confirming the payment of the fee in the established amount or exemption from the payment of the fee, or the existence of grounds for reducing its amount.

An application for a patent is submitted in Russian. Other application documents are submitted in Russian or another language. If the application documents are submitted in another language, their translation into Russian is attached to the application. A translation into Russian can be submitted by the applicant within two months after the receipt of the application containing documents in another language by the USSR State Patent.

Requirements for documents of an application for an invention are established by the USSR State Patent.

Article 9. Transfer of the right to patent and the right to use the invention

The right to a patent and the right to use an invention arising from a patent may be transferred by agreement to a citizen or legal entity. The agreement is registered with the USSR State Patent. An agreement without registration is considered invalid.

Article 10. Priority of invention

1. The priority of an invention is established by the date of receipt of the USSR State Patent Application containing a patent application, description and claims, drawings and other materials, if they are necessary to understand the essence of the invention and there are references to them in the description of the invention.

2. The priority of an invention may be established by the date of filing the first application for an invention in a foreign country that is a party to the Paris Convention for the Protection of Industrial Property (convention priority), if the USSR State Patent has received the application for an invention within 12 months from that date.

If, due to circumstances beyond the control of the applicant, the application claiming the convention priority could not be filed within the specified period, the latter may be extended, but for no more than two months.

An applicant wishing to exercise the right of convention priority must indicate this when filing an application for an invention or within two months from the date of receipt of the application by the USSR State Patent Office with the necessary documents confirming the legality of such a requirement, or submit these documents no later than three months from the date of receipt of the application to the State Patent of the USSR.

3. The priority of an invention may be established by the date of receipt by the USSR State Patent of an earlier application of the same applicant disclosing this invention, if the application for which such priority is claimed was received no later than 12 months from the date of receipt of the earlier application. In this case, the earlier application is considered withdrawn.

The priority of an invention can be established on the basis of several previously filed applications, subject to the specified conditions for each of them.

The priority of an invention cannot be established by the date of receipt of an application for which an earlier priority has already been claimed.

Article 11. Publication of an application for an invention

1. The publication of information on an application for an invention accepted for consideration, including the claims, shall be carried out in the official gazette of the USSR State Patent upon expiration of 18 months from the priority date.

At the request of the applicant, the publication of information about the application may be made earlier.

The publication of information about the application is not made if, before the expiration of the publication period for this application, a decision was made to grant a patent or it was withdrawn, or a decision was made on it to refuse to issue a patent, the possibilities for appeal of which have been exhausted. The publication of information about applications for inventions and about issued patents is not made in the case when such publication may harm the state interests.

Any person has the right to familiarize himself with the materials of the application after the publication of information about it or about the patent.

2. The author of the invention has the right to refuse to be mentioned as such in the published information about the application.

3. The claimed invention, from the date of publication of the application until the date of registration of the invention in the State Register of Inventions of the USSR, shall be provided with temporary legal protection in the scope of the published claims. Temporary legal protection is considered not to have come if a decision is made to refuse to grant a patent.

Article 12. Examination of an application for an invention

1. Examination of an application for an invention is carried out by the USSR State Patent and includes preliminary and patent examinations carried out in accordance with this Law and the rules established by the USSR State Patent on its basis.

The applicant has the right, on his own initiative or at the invitation of the state patent examiner, personally or through his representative, to take part in the consideration of issues arising in the course of preliminary and patent examinations.

2. During the examination of an application for an invention, the applicant shall have the right, on his own initiative or upon request, to supplement, clarify or correct the materials of the application without changing the essence of the invention.

Additional materials change the essence of the claimed invention if they contain features to be included in the claims that were absent in the original materials of the application. Additional materials in the part that change the essence of the claimed invention are not taken into account when considering the application and may be drawn up by the applicant as an independent application.

If this application is filed before the expiration of a 3-month period from the date of receipt by the applicant of a notification about the possibility of taking into account additional materials, the priority of the invention is established by the date of receipt of additional materials.

Additional materials upon the examination request must be submitted within 2 months from the date of receipt of the request. The deadline for submitting a response to a request may be extended at the request of the applicant, received before the expiration of this deadline. The term for the examination in the indicated cases is accordingly extended.

If the applicant violated the specified period or left the examination request unanswered, the application for an invention shall be considered withdrawn.

3. In case of violation of the requirements of paragraph 4 of Article 8 of this Law, as well as in the presence of other inventions in the initial application materials, the applicant shall have the right to file a divisional application (applications).

An application spun off on the initiative of the applicant must be filed prior to the grant of a patent on the original application.

If the divisional application (s) is filed within the established time frame and does not change the essence of the claimed invention in comparison with the content of the initial application, then the priority of the original application is established for the divisional application.

In case of non-fulfillment of the specified conditions for the selected application, priority is established by the date of its receipt.

4. The application may be withdrawn by the applicant at his request, received by the USSR State Patent before the expiration of the period for publication of information on the application provided for in Article 11 of this Law, and in the case of a decision to issue a patent before the expiration of the specified period - before the invention is entered into the State Register of Inventions of the USSR.

5. Applications accepted by the USSR State Patent for consideration are not returned to the applicant.

Article 13. Preliminary examination of an application for an invention

1. A preliminary examination of an application for an invention shall be carried out within one month from the date of its receipt by the USSR State Patent.

2. In the course of the preliminary examination, the presence of documents contained in the application for an invention is checked, and the question of whether the claimed invention relates to the objects protected by this Law is considered.

If necessary, the applicant may be asked to amend the application within two months after receiving the request. In this case, the period for the examination shall be accordingly extended. If it is established that the claimed invention does not relate to the objects protected by this Law, or the necessary clarifications were not made within the prescribed period, or documents that were missing on the date of receipt of the application for the invention were not submitted, then the application is not accepted for consideration, and the applicant is notified of this.

3. In the event that an application for an invention is accepted for consideration, the applicant is notified of the establishment of the priority of the invention, if he does not claim the conventional priority or priority by the date of receipt of the earlier application or additional materials to it by the USSR State Patent.

4. In case of disagreement with the decision of the preliminary examination, the applicant, within two months from the date of receipt of such a decision, has the right to file an objection to the USSR State Patent. The decision on the objection is made within a month from the date of its receipt.

Article 14. Patent examination of an application for an invention

1. Patent examination of an application for an invention shall be carried out upon completion of the preliminary examination.

In the course of the patent examination, the priority of the invention is established, if it was not established during the preliminary examination, and the patentability of the invention is checked.

It is not recognized as a circumstance affecting the patentability of an invention, the disclosure of information related to the invention by the applicant (author) or any person who received this information from him directly or indirectly, in which information about the essence of the invention became publicly available in the USSR or abroad, if the disclosure was made not less than 12 months before the date of filing the application with the USSR State Patent. In this case, the obligation to prove this circumstance lies with the applicant.

When establishing the novelty of the claimed invention, all previously filed unrequited applications, except for the applications of the same authors, and inventions recognized as patentable in the USSR are taken into account from the priority date, regardless of the date of publication of information about them.

2. If the applicant fails to comply with the requirement of unity of invention (paragraph 4 of Article 8 of this Law), patent examination shall be carried out only in respect of the decision indicated in the claims first, if the applicant, in response to the notification of the examination of the established violation of this requirement, did not report on the filing of a divisional application (applications) or did not ask to be limited to consideration of one of the inventions contained in the application or a group of inventions that meets the requirement of unity.

3. Patent examination must be carried out within 12 months from the date of sending to the applicant a notice of acceptance of the application for consideration. The term for the examination is extended in the cases provided for by paragraph 2 of Article 12 of this Law.

4. A change in the claims on the initiative of the applicant is allowed without expanding the scope of legal protection within the scope of the disclosure of the invention in the initial materials of the application until he receives the first request for patent

examination or its first decision, if the request was not sent. In this case, the term for the patent examination shall be accordingly extended.

5. Based on the results of the patent examination, a decision is made to grant or refuse to grant a patent.

The applicant for an invention has the right to familiarize himself with the materials used in the examination.

Copies of materials opposed to the application may be requested within 2 months from the date of receipt of the decision on the application.

6. If the applicant disagrees with the decision of the patent examination, he has the right, within 3 months from the date of receipt of the decision or the copies of the materials he has requested to be opposed to the application, to apply to the USSR State Patent for a second examination.

There is no fee for filing an application and conducting a re-examination.

Re-examination is carried out within 3 months from the date of receipt of the applicant's application.

7. If in the course of the examination it is established that identical inventions have the same priority date, then with the consent of the applicants, one patent is issued to them.

If no agreement is reached, a patent for an invention is not issued until the issue is resolved in the USSR Patent Court.

Article 15. Appealing a decision on an application for an invention and restoring missed deadlines

1. In case of disagreement with the decision of the patent examination, the applicant has the right, within 3 months from the date of receipt of the decision or the copies of the materials opposed to the application requested by him, to submit a reasoned complaint to the Patent Examination Appeal Council under the USSR State Patent Office (hereinafter - the Appeal Council). The complaint must be considered within 4 months from the date of its receipt. For complex applications, the specified period can be extended by agreement with the applicant. The applicant has the right, personally or through his representative, to participate in the consideration of his complaint.

2. The decision of the Board of Appeal may be appealed by the applicant to the USSR Patent Court within one year from the date of its adoption.

3. The deadlines provided for by paragraph 2 of Article 12, paragraphs 2, 4 of Article 13, paragraph 5 of Article 14 and paragraph 1 of Article 15 of this Law, missed by the applicant, may be restored by the USSR State Patent Office upon confirmation of the existence of valid reasons and payment of the fee.

An application for the restoration of the term may be submitted by the applicant no later than 12 months from the date of the expiry of the missed term.

Article 16. Publication of patent information

The State Patent of the USSR, within six months from the date of registration of the invention in the State Register of Inventions of the USSR, publishes information about the patent. The published information on the patent indicates the author of the invention, if he did not refuse to be mentioned as such, the patent owner, the title and claims of the invention, and other necessary information determined by the USSR State Patent.

The patent owner has the right to apply to the USSR State Patent for the correction of unintentional errors in the patent, which does not lead to an expansion of the scope of legal protection.

Article 17. Grant of a patent

The patent is issued by the USSR State Patent after the invention is entered into the USSR State Register of Inventions.

The author of an invention, who is not a patent holder, shall be issued a certificate confirming his authorship by the USSR State Patent.

Article 18. Recognition of a patent invalid

1. A patent for an invention during the entire period of its validity may be invalidated in whole or in part in the following cases:

unlawful grant of a patent due to violation of patentability requirements or the presence in the claims of features that were absent in the original materials of the application;

incorrect indication in the patent of the author (co-authors) of the invention or patent holder.

2. Any citizen or legal entity, within six months from the date of publication of information about a patent, may file an objection to the grant of a patent to the Board of Appeal due to violation of patentability requirements or the presence in the claims of features that were absent in the original application materials.

An objection to the grant of a patent must be considered within six months from the date of its receipt. The person who filed the opposition, as well as the patent owner, may participate in its consideration.

3. After six months from the date of publication of information about the patent or in case of disagreement with the decision taken by the Board of Appeals, the challenge of the issued patent or the decision to revoke it is carried out in the USSR Patent Court.

Article 19. Fees

1. For filing an application for an invention, conducting an examination, issuing a patent, maintaining it in force, as well as for committing other legally significant actions related to a patent, fees are charged. The list of actions for the commission of which duties are levied, the amount and terms of payment of duties, as well as the grounds for exemption from payment of duties, reduction of their size or refund of duties are established by the Cabinet of Ministers of the USSR.

2. The fees are paid by the applicant, patent holder, and also by any other interested citizen or legal entity.

3. When the author submits an application containing a request for a patent to the State Fund for Inventions of the USSR, no fees are charged for filing the application and conducting the examination.

In the event that a patent belonging to the author is transferred to the State Fund of Inventions of the USSR, the expenses incurred by the author in connection with the payment of fees for the performance of legally significant actions prior to the grant of the patent are reimbursed to him by the State Fund of Inventions of the USSR from the state budget.

In the event that a patent is issued to the USSR State Fund for Inventions, no fees are paid for its issuance and maintenance, as well as for further committing other legally significant actions.

Article 20. Early termination of the patent

A patent is terminated early:

on the basis of the patent holder's application filed with the USSR State Patent;

in case of non-payment of the annual fee for maintaining the patent in force within the established period;

upon recognition of the patent as invalid.

Article 21. Patenting an invention in foreign countries

1. Citizens of the USSR and legal entities have the right to patent inventions in foreign countries.

2. Prior to filing an application for an invention in foreign countries, the applicant must file an application for this invention in the USSR and inform the USSR State Patent of the intention to patent the invention in foreign countries. In the absence of a ban within three months from the date of receipt of the said message, an application for an invention may be filed in foreign countries.

The State Patent of the USSR may, if necessary, authorize patenting of an invention in foreign countries before filing an application for it in the USSR.

3. The costs associated with patenting an invention in foreign countries shall be borne by the applicant or, by agreement with him, another citizen or legal entity.

II. Use of inventions

Article 22. Use of the invention

1. The use of an invention shall be deemed to be the introduction into economic circulation of a product made with the use of a patented invention, as well as the use of a method protected by a patent.

A product is recognized as manufactured using a patented invention, and a method protected by a patent applied if it uses each feature of the invention included in an independent claim, or a feature equivalent to it.

2. The relationship for the use of an invention, a patent for which belongs to several persons, shall be determined by an agreement between them. In the absence of an agreement, each of them has the right to use the invention at his own discretion, except for the grant of a license, as well as the assignment of a patent.

3. Any citizen or legal entity wishing to use an invention is obliged to conclude a license agreement with the patent holder.

Article 23. License agreement

1. Under a license agreement, the patent holder (licensor) transfers the right to use the invention to another person (licensee), and the latter assumes the obligation to make payments to the licensor due to the agreement and to carry out other actions provided for by the agreement on an exclusive or non-exclusive license.

With an exclusive license, the licensee is transferred the exclusive right to use the invention within the limits stipulated by the agreement, with the licensor retaining the right to use the invention in the part that is not transferred to the licensee; with a non-exclusive license, the licensor, granting the licensee the right to use the invention, retains all rights arising from the patent for the invention, including the granting of licenses to third parties.

2. If the patentee cannot use the invention due to the fact that it uses another invention patented by another citizen or legal entity, then he has the right to demand from the latter to grant permission to use this invention on the conditions stipulated by the contract.

Article 24. Open license

The patent holder may submit to the USSR State Patent for official publication an application for granting any person the right to use the invention (open license). In this case, the patent maintenance fee is reduced by 50 percent, starting from the year following the year of publication of such a statement.

A person who has expressed a desire to use the specified invention is obliged to conclude a payment agreement with the patent holder.

Article 25. Use of invention in the interests of the state and compulsory license

1. В интересах обороны СССР и общественного порядка Кабинет Министров СССР имеет право разрешить использование изобретения без согласия патентообладателя с выплатой ему денежной компенсации, сопоставимой с рыночной ценой лицензии.

Споры о размере компенсации разрешаются Патентным судом СССР.

2. При неиспользовании или недостаточном использовании изобретения на территории СССР в течение пяти лет с даты внесения изобретения в Государственный реестр изобретений СССР по истечении этого срока лицо, желающее и готовое использовать изобретение, при невозможности заключения с патентообладателем лицензионного договора может обратиться с иском в Патентный суд СССР о предоставлении ему принудительной неисключительной лицензии с указанием пределов использования изобретения, размера, срока и порядка платежей.

This license is granted unless the patentee proves that the non-use or insufficient use of the invention is due to valid reasons.

Article 26. Property liability for patent infringement

1. Any citizen or legal entity using a patented invention in contradiction with this Law is considered a patent infringer.

2. At the request of the patent holder, the infringement of the patent must be terminated with compensation for losses incurred as a result of the unlawful use of the invention.

Claims against the infringer of a patent may also be made by the holder of an exclusive license if the patent owner, within 2 months from the date of establishing the fact of infringement of the patent, did not take appropriate measures against the infringer.

Article 27. Use of the claimed invention during the period of its temporary legal protection

1. During the period of validity of temporary legal protection, the applicant has the right to use the claimed invention, if such use does not violate the rights arising from valid patents.

2. A citizen or legal entity using the claimed invention during the period of validity of its temporary legal protection shall pay monetary compensation to the patent owner after receiving the patent for the invention. The amount of compensation is determined by agreement of the parties.

Article 28. State incentives for the use of an invention

1. Profit (income) and foreign exchange earnings received by the enterprise - the patent holder from the use of the invention in its own production, as well as from the sale of a license for it, are not subject to taxation for five years from the date of commencement of the use of the invention or sale of the license within the patent validity period.

2. Profit (income) and foreign exchange earnings received by the enterprise from the use of the invention as a result of the purchase of a license are not subject to taxation for five years from the date of commencement of the use of the invention.

3. By decision of the Cabinet of Ministers of the USSR and the governments of the republics, the periods specified in paragraphs 1 and 2 of this article may be extended in relation to inventions that are of great national economic importance and require a longer time for their development in production, and primarily related to the field of ecology and medicine.

4. Profit (income) and foreign exchange earnings received by an enterprise or a new production, which are created specifically for the manufacture of new technology using a patented invention, are not taxed for five years from the date the enterprise or new production is put into operation.

5. Savings in budget appropriations received by the state budgetary organization from the use of inventions, as well as income from licensing agreements within five years from the date of the start of the use of the invention or the sale of a license, remain entirely at the disposal of the state budgetary organization.

Article 29. State order for the development and supply of new technology containing an invention

When issuing a state order to an enterprise for the production of products using inventions, patents for which belong to other enterprises or citizens, as well as foreign patent holders, the authority that issued the state order ensures the acquisition of licenses, allocating the necessary funds for this.

Article 30. Financing of inventive activity at the enterprise and in the state budget organization

1. Funding for inventive activity at the enterprise is carried out at the expense of its own funds.

In the event of a shortage of these funds, bank loans, funds from innovation funds, and, if necessary, budgetary allocations can be attracted.

The state budget organization finances inventive activity at the expense of funds allocated for the maintenance of this organization, savings (income) from the use of inventions left at its disposal in accordance with paragraph 5 of Article 28 of this Law, as well as bank loans and centralized funds, and in the necessary cases - additional budgetary appropriations.

2. Enterprises may create a fund to encourage inventive activity, the funds of which are not included in the amount of funds allocated for consumption and subject to taxation.

Article 31. Государственный фонд изобретений СССР

Государственный фонд изобретений СССР осуществляет права и обязанности патентообладателя в отношении изобретений, исключительное право на использование которых передано государству, принимает меры к их широкому использованию.

Источниками финансирования деятельности Государственного фонда изобретений СССР являются выручка от продажи лицензий на изобретения, патенты на которые принадлежат Государственному фонду изобретений СССР, средства государственного бюджета, а также добровольные взносы предприятий и граждан.

Государственный фонд изобретений СССР не вправе переуступать принадлежащие ему патенты третьим лицам без согласия авторов изобретений.

Государственный фонд изобретений СССР осуществляет свою деятельность на основе Устава, утверждаемого Кабинетом Министров СССР.

Статья 32. Remuneration to the author of an invention who is not a patent holder

1. Remuneration for the use of the invention during the term of the patent is paid to the author on the basis of an agreement by the employer who received the patent in accordance with paragraph 2 of Article 4 of this Law, or his successor in the amount of at least 15 percent of the profit (the corresponding part of the income) annually received by the patent holder from its use, as well as at least 20 percent of the proceeds from the sale of the license without limiting the maximum amount of remuneration.

Remuneration for the use of an invention, the useful effect of which is not expressed in profit or income, is paid to the author in the amount of at least 2 percent of the share of the cost of production (work and services) attributable to this invention.

The amount of interest is determined by the company by agreement with the author.

2. Remuneration to the author of an invention, a patent for which was issued to the State Fund of Inventions of the USSR, is paid by the State Fund of Inventions of the USSR in the amount determined by agreement with the author, but not less than 20 percent of the proceeds from the sale of a license for this invention.

3. The remuneration shall be paid to the author no later than three months after the expiration of each year in which the invention was used, and no later than three months after the receipt of proceeds from the sale of the license.

4. When an invention is sold in foreign countries, a patent for which has been issued to a Soviet enterprise or the State Fund for Inventions of the USSR, including the sale of licenses and the supply of products for export, remuneration is paid to the author at his will in foreign currency.

5. The author of an invention, a patent for which has been issued to an enterprise, is paid by the patentee within one month from the date of receipt of the patent by him an incentive fee, which is not taken into account in subsequent payments. The amount of incentive remuneration for an invention (regardless of the number of co-authors) must be at least the average monthly salary of an employee of this enterprise.

6. Information about the use of the invention and the remuneration paid shall be entered by the patent holder in the certificate of the author of the invention.

Article 33. Liability for late payment of remuneration

For late payment of remuneration, the guilty patent holder pays to the author a penalty for each day of delay in the amount of 0.04 percent of the amount due.

Article 34. Remuneration to persons who contributed to the creation and use of the invention

1. An enterprise - a patent holder and an enterprise - a licensee shall pay to persons (including those who do not work at this enterprise) who contributed to the creation and use of the invention, remuneration, regardless of other types of payments.

2. The amount of remuneration paid for promoting the creation and use of an invention to all persons shall be established in the amount of at least 30 percent of the profit (corresponding part of the income) received by the enterprise from the use of the invention, and for an invention, the useful effect of which is not expressed in profit or income, - in the amount of at least 4 percent of the share of the cost of products (works and services) attributable to this invention, and is paid within three years from the date of commencement of the use of the invention.

III. Labor and other rights and benefits of inventors

Article 35. Labor rights and benefits

1. The author has the right, on a contractual basis, to participate in the preparation of the invention for use (in the development of technical documentation, the manufacture and testing of a prototype product, the organization of production).

2. To participate in the preparation of the invention for use, the author may be temporarily completely or partially released from the main work with wages in the amount of at least the average earnings he receives, and when these works are carried out outside the place of permanent work, an employment contract is concluded with the author with payment labor depending on the complexity of the work performed.

3. The amount of compensation for additional expenses of the author of the invention associated with participation in the preparation of the invention for use outside the place of his permanent residence shall be established by agreement with the interested enterprise.

4. The author of the invention, temporarily released from his main job, retains his position, continuous work experience and work experience in his specialty, the right to leave, other rights and benefits established at the place of permanent work.
5. In the event of a reduction in the number or staff of employees of an enterprise, inventors have the preferential right to be left at work.
6. If, as a result of the use of the invention at the enterprise, lower prices are introduced, the work of the author, as well as the work of the workers who participated in the preparation for the use of this invention, shall be paid at the same rates within six months from the date of the beginning of the use of the invention.

Article 36. Housing benefits

The authors of the used inventions have the right to additional living space in the amount established by the current legislation.

Article 37. Other rights and benefits of inventors

1. The author of an invention, upon application at any stage of consideration of the application for an invention, has the right to assign his name or a special name to the invention.
2. The legislation of the republics may establish additional rights and privileges for inventors.

Article 38. Transfer of the rights of the author of the invention (patent holder) by inheritance

The right to file an application and patent for an invention, the exclusive right to use the invention, as well as the right to remuneration and income from the use of the invention are inherited.

IV. Organizational framework

legal protection of inventions and protection of the rights of inventors and patent holders

Article 39. State Patent Office of the USSR

The USSR State Patent Office ensures the functioning and management of the unified patent system in the country.

The State Patent of the USSR accepts applications for inventions for consideration, conducts an examination on them, issues patents valid throughout the USSR, within the limits of its competence, monitors compliance with legislation in the field of invention, summarizes the practice of its application, explains the provisions of this Law, provides on these issues methodological assistance and services to interested enterprises, citizens, as well as public organizations of inventors, provides training for patent specialists, conducts patent information work, conducts state certification and registration of patent attorneys.

Article 40. Enterprises, organizations, institutions

Enterprises, organizations, institutions, regardless of the form of ownership of the means of production and other property, create the necessary conditions for the development of inventive creativity and the use of inventions, organize, if necessary, their own patent services, and provide comprehensive assistance to the activities of public organizations of inventors.

Article 41. Public organizations

The All-Union Society of Inventors and Rationalizers, engineering and scientific-technical societies, and other public organizations provide inventors with organizational, material, technical and other assistance, as well as assist inventors in protecting their rights and legitimate interests.

Article 42. Bodies considering disputes related to inventive activity

Disputes related to inventive activity are considered by district (city) people's courts, courts of autonomous regions, courts of autonomous regions, city, regional, regional courts, Supreme Courts of the republics, the Supreme Court of the USSR, the USSR Patent Court, and state arbitration bodies.

Disputes arising in connection with the exercise of the labor rights of the authors of inventions are considered in accordance with the legislation on the procedure for considering labor disputes.

Article 43. Organization and competence of courts considering disputes related to inventive activity

1. District (city) people's courts, courts of autonomous regions, courts of autonomous regions, city, regional, regional courts, the Supreme Courts of the republics, the Supreme Court of the USSR consider disputes related to inventive activity in accordance with the procedure established by civil procedure legislation, with the exception of disputes referred to the competence of the USSR Patent Court.

The competence of these courts, in particular, includes disputes:

on authorship (co-authorship) of an invention;

on the establishment of the patent holder;

on violation of the exclusive right to use the invention and other property rights of the patentee arising from the patent for the invention;

on the conclusion and execution of an agreement on the use of the invention, including on the use of the invention by an enterprise, when the patent holder is an employee of the enterprise;

about monetary compensation for the use of the invention during the period of its temporary protection and its size;

on the collection of remuneration for the use of the invention;

on the distribution of remuneration for the use of the invention among co-authors;

on the right of prior use.

2. The types of disputes considered by the USSR Patent Court, as well as the organization and procedure for its activities, are determined by the USSR Law "On the USSR Patent Court".

Article 44. Responsibility for violation of the rights of authors of inventions

Appropriation of authorship, coercion to co-authorship, disclosure of the essence of an alleged invention before filing an application for an invention without the consent of the author entails criminal liability in accordance with applicable law.

Article 45. Responsibility for violation of legislation in the field of invention

1. Officials bear criminal, disciplinary or material liability in accordance with the current legislation if they are guilty of negligent or dishonest attitude to their duties when filing an application for an invention, as well as when using the invention and paying remuneration to the inventors.

2. The state patent examiner bears disciplinary responsibility for disclosing the essence of the application before its publication (except for the case provided for by paragraph four of paragraph 1 of Article 14 of this Law), if it does not by its nature entail criminal liability in accordance with the current legislation.

3. Officials and employees of the State Patent of the USSR during the period of service and within a year after its termination shall not have the right to file applications for inventions, to acquire, directly or indirectly, the right to a patent, as well as to file applications for inventions for anyone.

Article 46. Public control over compliance with legislation in the field of invention

The All-Union Society of Inventors and Rationalizers exercises public control over the observance of legislation in the field of invention.

V. Final provisions

Article 47. Legislation of the USSR and republics on invention

The legislation on invention consists of this Law, other acts of the legislation of the USSR and the legislation of the republics on issues within their jurisdiction.

Article 48. Rights of foreign citizens, stateless persons and foreign legal entities

Foreign citizens, stateless persons and foreign legal entities shall enjoy the rights provided for by this Law and other acts of legislation of the USSR and the republics in the field of invention, on an equal basis with citizens and legal entities of the USSR, unless otherwise

follows from this Law and other acts of current legislation.

Article 49. The rights of enterprises, organizations and associations with foreign investments created in the USSR

1. The provisions of this Law shall apply to enterprises, organizations and associations with foreign investment established in the USSR.
2. The provisions provided for by paragraph 2 of Article 4 and paragraph 2 of Article 8 of this Law shall apply to enterprises, organizations and associations specified in paragraph 1 of this article, unless otherwise provided by their constituent documents.
3. Enterprises, organizations, associations referred to in paragraph 1 of this article, independently decide on the patenting abroad of inventions created in the USSR by their employees, provided that, before filing applications to foreign countries, applications for these inventions will be filed in the USSR.

Article 50. International treaties

If an international treaty of the USSR establishes rules other than those contained in this Law, then the rules of the international treaty are applied.

President of the Union of Soviet
Socialist Republics
M. GORBACHEV

Moscow, Kremlin
May 31, 1991
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