

PART IV

CHAPTER XI

DEFINITIONS

62. (1) For the purposes of this Part, “invention” means an idea of an inventor which permits in practice the solution to a specific problem in the field of technology.

Definition of invention.

(2) An invention may be, or may relate to, a product or process.

(3) The following, notwithstanding they are inventions within the meaning of subsection (1), shall not be patentable—

- (a) discoveries, scientific theories and mathematical methods ;
- (b) plants, animals and other micro organism other than transgenic micro organism and an essentially biological process for the production of plants and animals other than non-biological and microbiological processes :

Provided however, that a patent granted in respect of micro-organisms shall be subject to the provisions of this Act;

- (c) schemes, rules, or methods for doing business, performing purely mental acts or playing games ;
- (d) methods for the treatment of the human or animal body by surgery or therapy, and diagnostic methods practiced on the human or animal body :

Provided however, any product used in any such method shall be patentable ;

- (e) an invention which is useful in the utilization of special nuclear material or atomic energy in an atomic weapon ;

- (f) any invention, the prevention within Sri Lanka of the commercial exploitation of which is necessary to protect the public order, morality including the protection of human, animal or plant life or health or the avoidance of serious prejudice to the environment.

Patentable inventions.

63. An invention is patentable if it is new, involves an inventive step and is industrially applicable.

Novelty.

64. (1) An invention is new if it is not anticipated by prior art.

(2) Prior art shall consist of—

(a) everything disclosed to the public, anywhere in the world, by written publication, oral disclosure, use or in any other way, prior to the filing or, where appropriate, priority date of the patent application claiming the invention ;

(b) the contents of patent application made in Sri Lanka having an earlier filing or, where appropriate, priority date than the patent application referred to in paragraph (a), to extent that such contents are included in the patent granted on the basis of the said patent application made in Sri Lanka.

(3) A disclosure made under paragraph (a) of subsection (2) shall be disregarded—

(a) if such disclosure occurred within one year preceding the date of the patent application and if such disclosure or in consequence of acts committed by the applicant or his predecessor in title ;

(b) if such disclosure occurred within six months preceding the date of the patent application and if such disclosure was by reason or in consequence of any abuse of the rights of the applicant or his predecessor in title.

65. An invention shall be considered as involving an inventive step if, having regard to the prior art relevant to the patent application claiming the invention, such inventive step would not have been obvious to a person having ordinary skill in the art.

Inventive step.

66. An invention shall be considered industrially applicable if it can be made or used in any kind of industry.

Industrial application of invention.

CHAPTER XII

RIGHT TO A PATENT

67. (1) Subject to the provisions of section 68 the right to a patent shall belong to the inventor.

Right to a patent.

(2) Where two or more persons have jointly made an invention, the right to a patent shall belong to them jointly.

(3) If and to the extent to which two or more persons have made the same invention independently of each other, the person whose application has the earliest filling date or, if priority is claimed, the earliest validly claimed priority date, shall have the right to the patent, so long as that application is not withdrawn, abandoned or rejected.

68. Where the essential element of the invention claimed in a patent application or patent have been unlawfully derived from an invention for which the right to the patent belongs to another person, such other person may apply to the Court for an order that the said patent application or patent be assigned to him :

Assignment of patent application or patent, by court in case of usurpation.

Provided that where, after a patent application has been filed, the person to whom the right to the patent belongs gives his consent to the filing of the said patent application, such consent shall, for all purposes, be deemed to have been effective from the date of filing of such application :

Provided also that the Court shall not entertain an application for the assignment of a patent after the expiry of a period of five years from the date of grant of the patent.