

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 filing 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the earliest validly claimed priority date, shall have the right to the patent, so long as that application is not withdrawn, abandoned or rejected.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.

Inventions made by an employee or pursuant to a commission.

69. (1) In the absence of any provision to the contrary in any contract of employment or for the execution of work, the right to a patent for an invention made in the performance of such contract of employment or in the execution of such work shall be deemed to accrue to the employer, or the person who commissioned the work, as the case may be :

Provided that where the invention acquires an economic value much greater than the parties could reasonably have foreseen at the time of entering the contract of employment or for the execution of work, as the case may be, the inventor shall be entitled to equitable remuneration which may be fixed by the Court an application made to it in that behalf, in the absence of an agreement between the parties.

(2) Where an employee whose contract of employment does not require him to engage in any inventive activity, makes in the field of activities of his employer, an invention using data or means placed at his disposal by his employer, the right to the patent for such invention shall be deemed to accrue to the employer, in the absence of any provision to the contrary in the contract of employment :

Provided that the employee shall be entitled to equitable remuneration which, in the absence of agreement between the parties, may be fixed by the Court, taking into account his emoluments an application made to it in that behalf the economic value of the invention and any benefit derived from it by the employer.

(3) The rights conferred on the inventor under subsections (1) and (2) shall not be restricted by contract.

Naming of inventor.

70. (1) The inventor shall be named as such in the patent, unless by a declaration in writing signed by him or on his behalf and submitted to the Director-General, he indicates his decision to forgo his name being included in the patent.

(2) The provisions of subsection (1) shall not be modified by the terms of any contract.