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## **A Comparative Study on Patent Attorney in the Islamic Republic of Iran and the World Intellectual Property Organization (WIPO)**

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### **Abstract:**

The undeniable role of intellectual property rights in industrial and commercial developments has led to the introduction of these issues into legal literature. With the introduction of intellectual property rights into legal literature, a significant amount of laws and regulations were devoted to it, so the lawyers devoted themselves to explaining and explaining it. Also, considering the importance of intellectual property, comprehensive and complete legal approval of these rights in Iranian law and its legal foundations with jurisprudence and international conventions and Iranian law on the rights of creators and copyright, can also be applied to the implementation of these rights with salaries Iran and international conventions. Finally, you consider patent as one of the most important subcategories of intellectual property rights and protect it in Iranian law by looking at the industrial patent and trademark act and the trademarks act of 2007 and the agreement on the aspects of intellectual property rights obligations. The existence of this agreement in accordance with the minimum standards that have prompted the competent authorities to decide on the choice of the above-mentioned agreement in order to comply with domestic law in order to find out the weaknesses and shortcomings of the domestic laws on patents and suggestions in order to resolve the existing vacancies.

**Keywords:** Intellectual property, International conventions, Industrial and commercial, Patent

### **Introduction**

1- Explaining the subject: In general, intellectual property deals with issues that are the result of human thought and is related to the creativity of the human mind; in fact, the notion of intellectual property is a product that

is the product of human thought and intellectual power. Of course, the World Intellectual Property Organization (WPO) recognizes these rights for individuals due to intellectual activity and achievements in the industrial,

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commercial, scientific, literary and artistic fields. These rights include two general sections:

- 1-1- Literary property and art, referred to as "copyright" (copying). (Zarkalam, 1999) Rights of Literary and Artistic Property, First Edition, Tehran, Samt Publications)
- 2-1- Industrial property that supports a patent. (Doosti, 1996) Iran Industrial Property System Current Situation and Future Prospects, Proceedings of the National Seminar, The Role of Industrial Property in Relation to Economic Development, Tehran)

In this paper, we will evaluate patents as one of the main intellectual property subsets and support this issue in Iranian law, in line with the Industrial Patents and Trademarks Act, approved in 2007 and the Threeson Agreement Concerning Attributes of intellectual property. (Jafarzadeh, and Mahmoudi, 2005), "Main Provisions for Invention Support for the Judicial Function and the Office of Patents", Journal of Law Research, No. 42) Mandatory for the members of the WTO (Part of the Final Statement of the Negotiations the World Trade Organization held in Uruguay, is the most complete international document concerning all types of intellectual property rights, such as patents. History shows that Britain and France were the first countries in which the issue of spiritual property emerged. Also, internationally, to date, important contracts have been signed to support the rights of intellectual property owners, of which Paris and Bern agreed.

(a) The Paris Agreement was signed in 1883 between 13 countries to support industrial property and was implemented in 1884. This agreement supports the following:

1- Inventions 2- Commercial symbols and services 3- Industrial programs.

(b) The Bern contract was signed 2 years after the Paris contract (in 1886) to support literary and artistic products. The topics supported by the contract are novels, short stories, poems and plays, songs, operas, music and sonatas, programs, paintings, sculptures and architectural products. At the beginning of the two contracts, only two members were members, but gradually many countries joined them. To date, Paris has been amended many times.

#### **Research history:**

The history of this field is important for several reasons:

The first reason that one of the views on intellectual rights is that this is a meta-structural phenomenon that has been created to respond to the stage of industrial progress in the capitalist system of countries, so it is natural that this conception needs to be presented. Historical evidence is definitive. (Mirhosseini, 2008)

Second, the history of providing an economic assessment in the validation of intellectual property is of great importance. Also, economic advocacy advocates for intellectual property rights argue that intellectual rights have been created for some purposes, such as raising the level of community well-being, economic development and the reward of creativity and innovation. (Fathizadeh, Amirhooshang - Agreement Concerning the Intellectual Property Rights of TRIPS and Compliance with the Intellectual Property Laws in Iran Concerning the Patent Issue) Considering the issue of a large part of the types of rights, intellectual property does not have a long history (Bozorgi Vahid (2002), the World Intellectual Property Organization and

the Political and Economic Information of Developing Countries, 16th, No. 5 & 6).

Considering that the legal system of Iran depends on Imamieh jurisprudence, the issue of spiritual property in the jurisprudence of the Shiite religion is a new jurisprudential issue ("MOSTAHDESEH") and jurisprudence professors must withdraw their orders from the legal principles of the Shi'a religion and at their disposal Islamic society. (Abedi, 1995) Among the professors of jurisprudence, there are two different perspectives for this issue. Some people say that the spiritual property cannot be compatible with the jurisprudential subjects in the settlement problem, so they do not accept this. Others say that it can be accepted on the basis of Shi'i jurisprudence. After the Islamic Revolution in Iran, the issue of the rights of writers and inventors has become a complex debate, due to the commandment of Imam Khomeini (RA) in the book, titled, "Tahrir al-Wasilah", based on the failure to prove these rights in Islam. Some scholars of jurisprudence believe that spiritual property has not been approved by the Prophet.

They state that despite the fact that the authenticity of this form of property was at the forefront of Islam, but because the environment of that time did not pay attention to this problem, the Prophet also remained silent about it. (Vahid Dashti - the introduction of technology transfer contracts based on its related contracts), this issue was clearly evident in Europe in the era of Renaissance in relation to the industry. In this respect, in 1709 the Queen of England passed a law in which these rights were recognized. In the beginning of the same century, a similar law was passed in France and gradually many countries in Europe, South America and Asia adopted similar laws. The books and articles published in this area are as follows:

The concept of Intellectual Property: intellectual property has been at the center of attention of the international community due to its important influence on industrial development and promotion and transfer of technology and it is always added to its importance (Jafari Langrodi, 1999). Expansion in the terminology of law, Volume I, first edition, Tehran, the Journal of Ganjeh Danesh and in a brief overview, is a legal description that is used for creative people, artists, writers, designers, etc. and the immaterial products are supported by them in order to advance knowledge and knowledge in Society and the rights of individuals owning those products.

Now, to identify these rights, after giving a brief explanation of its sections, we define intellectual property by expressing the views of the professors of law. The word "right" means the right, the anti-vice, the certainty, the fairness and so on and in the realm of law, it means the powers that each country assigns to individuals to directly use capital or to transfer it and perform other matters from want another from a legal point of view, it can be stated that the word "right" is a power that is valid for one person to others or in relation to capital or an object. The right word has different dimensions in different divisions, such as dividing it into the intuitional right, the religious right, the financial right, the non-financial right and so on. One of the most important divisions is the division of the right to financial and non-monetary rights. The non-financial right is also defined as the spiritual right. In assessing and comparing these two rights, it can be said that it is different in dimensions:

- 1- in terms of legal nature
- 2- in terms of 3- and 3- in terms of products.

The first difference is in terms of legal nature since the financial right is a kind of eco-

conomic right with the ability to trade and transfer, but the intellectual right is a situation that the legislator has provided that the means of implementation does not have the ability to transfer and eliminate.

The second difference is basically because the basis of financial credibility is respect for the property of the people, but the value of the spiritual right can be explained on the basis of human value and personality.

The third difference is in terms of products because the products have the financial right to transfer and trade and against agreements and other legal instruments, it is transferred to someone other than the owner of the work but the intellectual right to preserve the value and personality of the creator. The term "spiritual right" is used to mean an esoteric, real and immaterial, apparent and formal and in the term also an immaterial being and the result of thought, activity, and intellectual achievements.

In a general classification, we can divide the property into two categories:

**Physical property:** A property that focuses on physical and material property, such as property, land, vehicles, goods, inventory, etc., that have material value and are usually written to prove their property or a specific document that refers to its ownership.

**Intellectual Property:** Any non-physical property, such as technical knowledge, commercial databases, ideas, industrial plans, etc., means the mastery and the right to use the products of human activities and achievements in literary, artistic, scientific, commercial and industrial fields. And intellectual property, like all property rights, means the recognition of the mastery and the property of the owner of a work in relation to his creative effect, with all the privileges and interests and duties assigned to it by law. Also, in the definition of intellectual property,

lawyers disagree; therefore, they describe their examples. This type of property is not in the ordinary state of the document or written material, such as physical property, to prove its belonging to a particular person, such as an idea that creates a piece of music or an artwork and therefore in conventions and even in agreements Like TRIPS which has intellectual property-related features, they are more complete than previous conventions.

The TRIPS Agreement relates to the characteristics of the intellectual property business, all issues and areas relating to intellectual property, including trademarks, geographical indications, industrial plans, patents, integrated circuits manufacturing, and data protection programs, computer programs and databases and literary and artistic property rights covers. (Fish, December 1996) Industrial Property Assistance Under the Paris Convention and the TRIPS Agreement, National Meeting of Industrial Property Rights of the Islamic Republic of Iran and the Commercial Properties of the Property in International Business in cooperation with the State Registration and Property Registration Organization, Tehran, 27 -26. In general, it can be said that intellectual property is a right that supports the products of human thought and its subject matter is inviolable and by virtue of the immaterial and non-perceptible attribute of intellectual property, it obtains certain attributes which one of their special features is that the violation of such properties can be easier than pre violation. The objective is to ensure that support for these rights is faced with the greatest attention of the countries of the world and in the context of their support, international instruments, protocols and agreements and governments in various subjects and sectors of these rights, to adopt the necessary laws and regulations Pay attention. Also, the use of

title "property rights" is criticized by some Iranian lawyers and suggest the term "intellectual property".

Safaei considers the issue of intellectual property to be an economic and exchangeable value, but its subject matter is not material but its subject matter is human activity and achievement. (Safaei, 2001)

Also, Katouzian considers intellectual property as a right which allows the owner to use the interests and a particular form of human activity or thought exclusively and thus it can be said that intellectual property belongs to the owner of the monopoly of a work, the right to manage Copywriting and other issues related to products for a limited period of time. (Katouzian, (2005) Preliminary Civil Rights (Property), Tenth Edition, Tehran, Mizan Publishing and also in the Year (1986) Introduction to the Science of Law, Seventh Edition, Tehran, Eghbal Publishing). Regarding this, a group believes that given the fact that the word "spiritual" is in the context of the meaning and the inner meaning of the words in the mind and, on the other hand, is placed against the word "material", due to its broad meanings, is well related to the meaning and purpose.

The issue is not discussed. While intellectual property means to be the product of human thought, some scholars suggest a spiritual property for this complex and it has a broader dimension. They believe that although the use of the term intellectual property in most cases is a true affair and is more in line with the Persian language, it is not easily accepted in all aspects of the spiritual property such as symbols and trade names and the attribution of the effect to the author, because the source.

The use of a brand name to prevent unhealthy deception and competition and the assignment of the work is not necessarily in

the domain of intellectual thought and creativity but belongs to something that is related to thought (Mohaghegh Damad, 1996) and some of them only because they do not exist in this area, such as the mortgage problem. When we look at the tenants 'tenants' law from the years 1944 to 1998, wherever the word "mortgage" is used, it is meant to be traded and traded, while the legal authenticity of the right to trade and trade has always been religiously doubts and debates have always been possible, but mortgage has always been an issue, because the right to trade and trade is more in our laws.

This is due to the fact that the tenant has been trying and getting a customer for a while. The term "property rights" seems to be more desirable, because the word "spiritual" is in most cases defined as material and what this title is in the minds of individuals is a completely moral, moral and non-monetary right that cannot be converted into money. For instance, the inventor's right to attribute the work to him can be considered in the field of intellectual property and in front of it, has given various material rights, while intellectual property is the product of human intelligence creativity. There is also a spiritual property with this important impairment that can be assumed with the intellectual property of the owners of the same. Intellectual Property also includes material and spiritual rights in the field of literary and artistic property.

Types of intellectual property: Traditionally and in terms of subject matter, intellectual property is divided into two general types:

- (a) Rights of literary and artistic property (copyright)
- b) Industrial property rights.

Rights to the property of literary and artistic or copyright: (right of the author)

Here the topic of the support includes a wide range of products for the literature: the verbal (such as poems, conferences, presentations, defense lawyers and others), writing (like books, magazines, etc.), audio (song and mourning, etc.) video (film, theater, etc.) by radio, television, theater, cinema and visual display products (a variety of programs related to carpets, Gelim, photography, architecture, crafts and so on) and computer products (computer generated space have become (Sadeghi, 1997) Supported by computer software owners), Secretariat of the National Council for Informatics, First Edition, Tehran, Planning and Budget Organization)

1. The main purpose of literary and artistic property is to support and protect literary, artistic and scientific products. Of course, there are differences between jurists regarding the use of the term "literary property" and the term "author's right". Although, in appearance, the term "copyright" is used more by writers than other artists, such as a photographer and sculptor, etc. That is, because of its limited scope, it is not a desirable alternative to literary and artistic property. These rights are equivalent in English which are called "copyright" and are effective in preventing the copying and distribution of illegal content. Of course, this type of property in domestic law is due to the copyright law of writers, researchers and artists which was ratified in 1970 and internationally supported by agreements such as the Bern Convention in support of the rights of the author.

2. Industrial property rights: With the advancement of industry, the issue of industrial property rights has been raised to protect industrial products and inventions and to encourage artisans and inventors and the range of inventions is constantly being developed and benefits. For this reason, developments in the laws governing the support of the

products of inventors and artisans have gradually developed to some extent today, in all European, American and Asian countries, laws were created to protect the rights of industrial property and inventions of individuals (the organization of registration of documents and real estate Country, (1996) Seminar on the role of industrial property in economic development, Tehran).

Industrial property is divided into two parts:

1. Symbols such as trademarks and geographies that can be supported indefinitely, but retain their distinctive shape.
2. Rights related to inventions and industrial and commercial programs are usually supported within a limited time.
3. In Iran, the first law concerning the support of industrial property was approved in 1930 and then the law on the registration of symbols and inventions in 1932 was approved by the parliament with 25 issues and now the main law in the field of industrial property is the patent law, industrial programs and symbols (This law was passed by the Islamic Consultative and Legal Commission on 2008 which after approval by the parliament, the test was approved by the Guardian Council for 5 years at a meeting on Wednesday, 2008)
4. The main international agreements in the field of industrial property, the Paris agreement of 1883 which has been amended many times. There is a controversy in distinguishing different topics and titles in the industrial, literary and artistic group between lawyers and scientists, but regardless to this and any doubts, we must accept that patents are one of the main subsets and examples

of industrial property rights and commercial property rights.

5. Industrial property rights also have different subjects and examples. Among these different examples, the issue of inventions plays an important role in this aspect of human life and progress. In this respect, the patent also has a special place in intellectual property due to its important role in human life. Intellectual property plays a key role in expanding inventions and transferring them to other countries (Rezaei, December 1996, a brief overview of the industrial property system in the Islamic Republic of Iran, the National Conference on the Evaluation of Industrial Property Rights in the Islamic Republic of Iran and the aspects of the property's intellectual property in international trade, Tehran, 27-26)
6. Patent position in intellectual property: Industrial property rights are one of the most important intellectual property collections that relate to human creativity and intellectual achievements in industrial fields and tend to focus on topics that are the result of human thought and human interpersonal achievements. And the subject of this property is usually immaterial. Industrial property rights also include different subjects and examples that, among the various examples of these rights, the issue of inventions in this regard, plays an important role in human life and its progress, are of the particular importance. As a result, the patent has a special place in intellectual property because of its important role in human life. Intellectual property plays an important role in expanding inventions and transferring it to other countries. In

this context, governments and international organizations have paid much attention to its discovery and expansion and have so far made international agreements and have also considered good domestic laws for the greater consideration of the rights of owners of works.

7. Definition of patent: A patent is the right of the inventor and creator of a patent in an exclusive and temporary manner and subject to certain obligations in the laws relating to the use, transfer, sale, distribution, import and grant of exploitation licenses. Before entering the main discussion of the patent, in order to know more about this important legal issue, we first evaluate the concept of patents in Iran and then in the international domain and in addition, we will distinguish it from the concept of the invention. (Emami, 1972)
8. The concept of the patent in Iranian law: The patent or inventor's right is related to the time when an invention emerges in the external environment and, in other words, the invention arises. Indeed, invention means creating, innovating or creating an object and the inventor is the name of the person who created this invention and invention. The invention, after being made from the genius and the mindset of the innovator, has two different types of advent. The first emergence, in its material and apparent form, is to be considered sooner. The second emergence in the inventor's mind is its mental and imaginative form. In Iranian law, there are different views on the invention. Some lawyers consider the invention to be an invention of an unprecedented industrial product, the discovery of a

new thing and the use of existing tools for industrial or agricultural output.

Other lawyers in the definition of the patent define it as a monopoly which gives the public authority to the owner of the invention to exploit it which prompts the inventors and promotes the genius of mankind. In the absence of legal support, theft and misuse of the invention, it is possible to avoid the distribution of inventions and the decline of industry and technology. Based on existing laws in the country, patents are an exclusive right to an invention that is a new way of doing a new work or technical solution to a problem that is also true for a product or process from a stream. There is no patent definition in the Iran's Register of Signs and Inventions which was approved on 1932.

Of course, there is no definition of patents in the Patent, Industrial and Trademark Supported Patent Law but the invention has been defined. In fact, the patent has always been recognized as a monopoly. A patent is a collection of proprietary rights given to the individual by the state, on which the others cannot use a product for a specified period of time. According to part a of clause 2 of matter 1, the draft patent bill of Iran is defined as follows: Invention means the thought of an inventor who in the field of technology provides a practical solution to a particular problem. In order for the patent law to have the necessary support, the inventor must register his invention on a specific basis.

9. The concept of the patent in international law: In the laws of most countries, such as the ICA and UK issues, there is no precise definition of the invention. The source of this issue in the model of the World Intellectual Property Model, such as the Paris Convention, is not in the definition of patents in support of industrial property but

the definition of invention has been made that the invention is, according to this definition, the idea of an inventor who, in technology, is a practical way. It is a special issue and may be related to a contract or a process. In English law, the word patent refers to the invention sheet. This definition can be used by developing countries which is the invention of a new idea that in practice allows solving certain problems in the industry (document setting by the International Bureau of Basic Concepts of Industrial Property Support, Proceedings of the National Seminar on the Property Industrial Development in Economics organization of Registration of Documents and Real Estate of the Country, September 20-21, 1995. p. 18.)

10. Patent differentiation from the invention: Now in this issue, considering the definition and term of the invention, we compare it with one of the similar titles (patents) that we find most mistaken in its diagnosis. The invention of human mental force is the force of the idea of implementing an idea using the devices in nature of the invention of a new industrial or agricultural product. A creative person and inventor, by creating a new product, according to the law, gains the right that others have to comply with and, by obtaining this right, the inventors, in addition to securing, will also benefit society from the effects of their invention. The right to object Use in the science of law is called "patent". In paragraph 1 of the thrips agreement, only the terms and conditions of a patentable invention are expressed and are not subject to the in-



vention. It seems that the lack of definition of the invention in the Thrips Agreement is due to differences of opinion between the parties to the agreement on the definition of the patent which, of course, is in the interest of the developing countries, because they give them the opportunity and opportunity to use the invention with consideration. Getting your own country-specific criteria; In other words, countries can define the invention based on their own criteria. Generally, patents can be regarded as an exclusive privilege granted by the government to the inventor for a certain period of time in return for providing a useful, innovative and industrial application. Given the definition of invention and patent, it is clear that these concepts are completely different from each other and that their application is wrong.

11. The History of Patent Support: The evolution of human life has passed through different times. Humanity has come from the agricultural community and then the industrial society, into the information age. Industrial property is referred to as the intellectual property subset of human intellectual creativity in the field of industry, such as inventions, industrial programs and so on. Although, from the point of view of many lawyers, this part of the property in ancient times, that is, from the moment of socialization of man and his commercial relations with other people, is ready but in fact the history of its evolution and formation must be accompanied by the advent of the industrial revolution and modern economics and the invention of the print-

ing industry has been boosted by the expansion of industry and economy.

Initially, the support of the invention was achieved by granting concessions or complaints in courts. This procedure lasted until the middle of the 17th century and afterwards, many countries sought to draft laws to support the invention in national dimensions and the ICA issue in the year 1790 and later in France, in 1791, they adopted their first national law in support of the invention. However, with the development of industry and the expansion of relations between nations and new inventions, industrial property rights are a historical imperative and have led to a contract between 11 industrial countries was signed on March 20, 1883 and this property was officially recognized. In this chapter, by examining the consensus on the history of supporting patents as one of the branches of intellectual property, we evaluate the process of transformation of this field of law into domestic and international law. Therefore, the contents of this chapter in two issues, namely, in Iranian law and law internationally expressed.

12. Patent in Iranian Law: The historical record of intellectual property which is the product of the Industrial Revolution and the Age of Industry is about 150 to 200 years ago. In our country, intellectual products and innovations were less considered than by establishing contacts and exchanges with industrialized countries that grew after the Constitutional Revolution, as well as the familiarization of people with new foreign intellectual products and then creating incentives for domestic inventors and increasing the number of innovations. And intellectual products inside the country, the field of intellectual property and intellectual property support were provided and

lawmakers began to formulate and approve laws related to those rights. In Iran, industrial property rights have a long history of the literary and artistic property. Various laws have been developed in relation to these two types of rights in the country which can be found in the Industrial and Commercial Register Act of 1926 as the first law relating to industrial property rights and the Law on the Protection of the Rights of Writers, Researchers and Artists in 1970. As one of the most important of these laws in the collection of literary and artistic property.

12.1- The Law on the Registration of Symbols and Inventions Approved 1932: The first industrial property rights in Iran in 1926 and at the time of the rule of Reza Shah Pahlavi were approved in 18 articles and 5 notes. With the expansion and development of Iran's relations with other states on July 1, 1932, and taking into account the conditions and needs of the country, a relatively comprehensive law entitled the Law on the Registration of Symbols and Inventions was approved by the Parliament in 51 articles. (Vesali, 77-78) Analysis and Evaluation of Commercial Trademarks in Iranian Law, Ph.D., Islamic Azad University, Science and Research Branch). This new law abolished the 1926 law. The executive code of this law, dated July 19, 1932 which had 59 articles and 4 notes, was passed which was abolished by the adoption of the amending law. In addition to determining eligible inventions, the law also provides rules for prohibited registrations, the duration of patent support, patent-pending cases, the possibility of transferring a patent, the need for registration and transfer and the manner in which claims for inventions are handled.

The second chapter of this law has 26 to 45 articles on the subject of patents. In Law 1932, no definition of the patent has been made. The Law on the Registration of Iranian Trademarks and Inventions in 1932 which dates back to the history of this category in Iran, has not been able to bring favorable benefits to the country in recent years. The law of patents, industrial plans and trademarks of 2007 was named as the newest current law of the country. By the adoption of this law, the law of the year became obsolete.

12.2- The Law of supporting of Patents, Industrial Plans and Trademarks approved in 2007: Since the adoption of the Law on Registration of Signs and Inventions of 1932, more than 77 years have passed. At the time of the ratification, the law was modern and provided the needs of the inventors and owners of trademarks in the country at that time. Industrial developments in various sectors of industry, agriculture, trade, and services have been developing over the past 50 years, especially in the last 20 years, the development of electronic and computer industries and the development of the Internet has created a new atmosphere in the world. The developments in international intellectual property law are also aimed at responding to the needs and developments of today's world and for this reason, various international agreements have been made.

Today, the entry into the issue of international trade and the support of industrial and economic achievements for maintaining the country's position in the field of global economic competition is a crucial issue. Without proper recognition and application of the intellectual property laws, the scope of competition over countries and the active participa-

tion in international trade with problems Faced. The developments in international intellectual property law have had a great impact on the domestic rights of the country and their coordinated communications have increased the need to pay attention to these rights in the country. Countries that are members of the World Trade Organization (WTO) have felt this need more than other countries. With the knowledge of these developments and recognizing the obligations of the country on the international level and acknowledging the shortcomings in the current law of registering symbols and inventions (1932), the organization of documenting and real estate of the country has been informed about this development and to create a favourable environment for the membership of the Islamic Republic of Iran in the trade organization The World has set up a new law called Patent Law, Industrial Plans and Commercial Symbols. After the expiration of 76 years from the date of the enactment of the Law on the Registration of Symbols and Inventions, the Law on Patents, Industrial Plans and Commercial Symbols was finally implemented by the Legal and Legal Commission of the Islamic Consultative Assembly in accordance with Article 85 of the Constitution of the Islamic Republic of Iran, it was approved that the program of patents, industrial plans, symbols, and trade names was submitted to the Islamic Consultative Assembly and, after approval by the Parliament, conducted a trial for 5 years in a public hearing on Wednesday Date 2007 and approval by the Guardian Council. The law has 66 articles, since the date of its implementation, the law on the registration of symbols and inventions was approved in 1932 and its subsequent terms were revoked. The law is divided into four chapters: the first chapter of patents, the second chapter of industrial pro-

grams, the third chapter of collective symbols and trade names and the fourth chapter which is general law.

In this law, for the first time, the registration and support of industrial programs entered the system of industrial property rights of Iran, while the 1932 Law was silent on this issue and until the adoption of this law, there was no support for industrial programs. There is no doubt that inventions in intellectual property are considered as one of the main issues and it is particularly important in the industrial property sector that over 70% of the revenue of the World Intellectual Property Company is from international patents. In this law, inventions are also prioritized and new issues have been planned that do not exist in the legal and administrative system of Iran, such as the features of the new law in the subject of the invention which may include the following:

- a) The new patent law has, in many cases, been aligned with international agreements, particularly the intellectual property trademark agreement.
- (b) The Law on the Registration of Symbols and Inventions of 1932 does not define the issue of invention and directly enters instances and practices while in the new law, the invention is defined and identified and is consistent with the relevant international agreements.
- c) Estimates of the one-year right of priority under the Paris Convention are other parts of this law which allows patent filing in other member states of the Convention (covering 170 countries) in compliance with the national laws of each member state which is an important matter in law 1932 is not estimated but approved in the new law.

- d) With the new definition of invention in this law, the originality of the invention was added to the other principles of being new and having an industrial application.
- (e) Patents are still announced in this law and this important issue has been to accelerate and simplify the registration of national patents, as well as providing a basic basis for international registration in any country party to the Paris Convention, in accordance with the domestic laws of each country.

Although in the present system of Iran, a patent is declared and the inventor's certificate does not create the right of appearance and whenever a third party can request a cancellation from the court, in this law, an experimental system or an evaluation system which is also scientifically interpreted, used and other parts of the law such as the inventor's rights are obtained in the patent certificate. Another important issue in the field of inventions which is harmonized with international agreements in the field of inventions, is also important in the domestic dimension, the exceptions arising from the invention and the achievement of some of them, such as the withdrawal of exploratory cases, are of this support. It should be noted that in the law of 1932 the invention and exploration are used synonymously. In the exceptions section, many of the spaces in the TRIPS agreement have been used frequently and genetic resources and its constituent elements and biological processes and their production are within the scope of the rule of law which is of particular importance in view of the richness of Iran in the field of genetic resources.

13. Patents in International Law: The first Intellectual Property Patent Law was enacted in 1474, according to which

every inventor was entitled to the monopoly of benefiting from it for a period of 10 years. At that time, industry and technology were still not developed but gradually governments recognized the necessity of supporting the right of inventors, artists and authors, so the British, French and American countries also recognized the inventor's patent in 1623, 1762 and 1790, respectively. The diversity of the domestic legal system of the world and the necessity to formulate unified international laws in various fields, especially intellectual property, the World Intellectual Property Organization and the World Trade Organization (WTO), has sought to conclude agreements and conventions that have been in place since 1883 in the field of patents. That is, since the ratification of the Paris Convention, it continues to this day and is accepted by everyone. Here, in order to better identify the patent issue in this section, we briefly discuss the four most important of these agreements and conventions.

13.1. Patent Cooperation Agreement 1970: PCT Agreement is a Patent Cooperation Agreement called the PCT. The agreement is in such a way as to relate to the setting up of international declarations aimed at making the invention internationally useful, simplifying patent-related matters for Member States, making public access to information contained in patent documents and participating more Countries in the development and advancement of technology in the 1970s in 1979 and 1984 were reformed and revised to support intellectual property by around

108 countries by the year 2000 (Zabiolah, 2000)

Before the conclusion of the agreement of any person applying for a patent in several countries, it was compelled to submit and submit several declarations to a number of countries, in addition to imposing financial burdens such as translation costs, the rights of the lawyer, etc. for the client, the offices Patents have faced many problems in terms of the high volume of work that was done to evaluate the apparent demand for applications which, by abandoning the traditional way of patent cooperation agreement for any inventor who wants to support his invention in different countries, can Refer to one of the patent offices of your desired countries This application is evaluated at an international search office. Form and international search is done by the same receiving agency. The purpose of international search is to search for patent documents related to previous inventions to obtain access to the records of the invention in relation to that invention. After these steps, the result of the search is listed in the report. An international declaration is valid if the applicant is a product whose results are not known as "international search". Under the terms of the patent cooperation agreement, the International Search Office may request an external evaluation of its invention which is referred to as "preliminary international assessment". (Nasabadi, 1991, p. 50).

The purpose of an external evaluation is whether the invention has international registrability or not? Of course, the results of this assessment are preliminary and not obligatory and are only considered by the patent offices as a consultative theory. After determining the outcome of the international search, the relevant office will send the research report along with the application of

the registration offices to each of the selected countries by the client. At this stage, the declaration will be in the domestic laws of the countries and the national stage and eventually the patent certificate will be issued after the evaluation of the documents and reports based on the domestic laws of the countries.

13. 2. Paris Convention for the Protection of Industrial Property and its Principles (1883): Patent support requires the learning of internationally recognized rules and regulations. In the second half of the 19th century, with the expansion of science and technology and markets, the issue of support for industrial property was raised and the first international convention, 1883 Paris Convention, was signed in 11 countries. The convention was revised several times in the years 1900 in Brussels, 1911 in Washington, 1925 in The Hague, 1934 in London, 1958 in Lisbon, 1967 in Stockholm and in 1979. The Iranian government also joined the convention in 1998. Because of the first clause of article 1 of this agreement, this union is formed by the member countries of this convention to support industrial property. The convention is of great importance for supporting industrial property.

#### 14. Principles Governing the Convention

The rules of this convention can be divided into four categories:

The first category: the principle of the right to national action

Type II: Principle of Priority

The third type is the general rules in the field of material rights which include laws that create or enforce laws requiring member states to enact laws in accordance with these rules.

Type IV: Administrative Laws (Zabiolah, 2000, 14) for the implementation of the Con-

vention and includes the final constitutions of the Convention. To assess the two first categories of "national principle of performance" and "principle of priority" as the main rules of the convention.

14.1. Principle of National Performance: Articles 2 and 3 of the Paris Agreement on the Principle of National Performance. In accordance with the first paragraph of Article 2 of the Agreement, each member country of the Union in the other Member States shall have the same rights and benefits in the interests of the industrial property as the laws of that country shall have for its people and these benefits shall, as soon as they are created for the people. Each of the member states of the convention is established for the people of other member states. However, Article 2 (2) of the Convention does not provide for the observance of the principle of national performance in relation to the people of the countries of the Convention and the enjoyment of these rights subject to the condition of residence in that country. Article 3 of the Convention further extends this concept to the people of countries that are not members of the Convention of Paris but on condition that they stay in a member state of the Convention and have a "real and effective" industrial or commercial base in that country. The point to be made here is that the principle of national performance in relation to the conditions for the enjoyment of rights by the people of the Member States is in the process of proving the right and, in accordance with paragraph 2 of article 2 of the abovementioned Agreement, as proof of these rights and on the procedure of prosecution and formalities The judiciary is binding on foreigners. According to this article, the

"principle of national performance" includes all the privileges that domestic laws have for its people. The important point to be taken into consideration in this article is the issue of nationality. Several points are crucial in determining the citizenship of the expression. Considering that the domestic law of each country governs the question of nationality, one can conclude that the determination of citizenship is directly related to the sovereignty of the countries and is related to it. This means that domestic law, as it involves the people of a particular country of the convention, includes other peoples of the member states, so in this respect, the existence of the principle of national action will eliminate any discrimination against the detriment of other members of the public. If there is a dual citizenship for a person, the nationality that the person himself refers to is in practice, except in special cases. In enforcing this principle, the citizenship of individuals at the time of applying for the benefits and benefits mentioned above is the criterion of action. That is, if a person's nationality is changed, that person cannot use his former nationality to exercise the right and use the principle. The last point is that, given the application of Article 2 of the Convention, it is not possible for the Member States to restrict and enforce the implementation of the rules of the "mutual deal".

14.2. The Principle of Priority: This right is exercised in the Paris Agreement in relation to some industrial properties such as patents. The principle of priority means that, on the basis of a patent application or a patent application filed in one of the States Parties to the Convention, the applicant for a patent certificate in a given

period in other States Parties to the Convention is authorized to apply for registration of the Convention. And it has the priority. In other words, the effective declaration lodged in the next State is in the application filed on the date on which the original application was filed and events such as the presentation and publication of the invention between the submission of the application and the second application destroyed the customer's right to support and patent in The next country will not be.

15. The World Intellectual Property Organization (WIPO): The World Intellectual Property Organization is an organization sponsored by the sponsors of the rights of the owners of the products, intellectual processes at the international level, in harmony with the recognition of inventors and authors and encouraging them and giving rewards on their initiative. And the establishment of this international system to support innovative products and processes which is a product of human creativity, can play a very important role in the development and development of human creativity and ultimately, with the economic flourishing of the countries, will help improve the lives of people around the world. (Soghra safari, World Intellectual Property Organization (WIPO), Islamic Book Publishing, No. 8) Here, it is possible to say that one of the sixteen specialized agencies of the United Nations, founded in 1976 to promote creative activities and promotion of intellectual property support in the world is the emergence of the World Intellectual Property Organization is related to an event in 1873. This year, an exhibition called the International Exhibition of Inventors in Vienna was held. Most of the

participants were banned from attending the exhibition due to their lack of respect for intellectual property. Following the efforts of scholars, 10 years later, the Paris Convention was held in 1883 to support intellectual property and the member states set up an international agency to carry out their duties. In 1886, the Bern Convention was created to support literary and artistic products and administrative offices were set up, followed by a convention in 1967 called the World Intellectual Property Organization in Stockholm for coordination between these two offices and the development of the necessary tools for the organization as one of the sixteen UN agencies was introduced in order to enhance intellectual property activities and facilitate technology transfer to the developing countries, thereby creating economic, social and cultural development. Made According to Article 27 of the United Nations Human Rights Charter, individuals benefit from the support of material and spiritual benefits derived from scientific, literary and artistic production. In intellectual property, as well as other property rights, the creator or owner of a patent, trademark and copyright and reproduction of the interests of his work or capital. Prior to its establishment, the BIRPI was responsible for matters relating to the Paris Agreement and the Bern Convention on Literary Property.

#### 15.1. The World Intellectual Property Organization:

(a) The General Assembly (members of this Assembly shall be composed of representatives of all States Parties and members of the Paris and Bern Committees and shall have two types of ordinary meetings convened every two years and an extraordinary

summit, at the request of the Director General, at the request of the Coordinating Committee or at the request of A quarter of the members of the Assembly are formed.)

(b) The Summit (the summit of the member states of the organization, including the member of the Union of Paris or Bern or not and is engaged in providing legal, technical assistance to other countries and approval of its two-year budget and the ordinary meeting of the General Assembly at the same time as the General Assembly at the invitation of the Director General at the headquarters of the Truth Organization in Geneva.)

15.2. The objectives and tasks of the World Intellectual Property Organization: the main ones are as follows:

a) Supporting intellectual property worldwide through collaboration among governments and, if possible, with other international organizations.

(b) To encourage governments and nations to support intellectual property by concluding agreements and international agreements.

c) Helping to help countries to unify national laws).

d) Technical and legal cooperation with governments and customer organizations.

e) Providing and facilitating administrative cooperation between unions.

16. Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).

Trilateral Agreement (TRIPS) during the 1980s, many of the products and trademarks that were involved with the US ownership and support of the ICA were copied and abused. This issue led the government to the ICA to prevent any further imitation by bilateral negotiations with other countries. In this regard, he conducted several negotiations with different countries, but as the country's industries demanded more and more effective

international support, the government set up the ICA issue for multilateral negotiations to achieve this support. Considering that several countries at that time were the parties to the Treaty of GATT. The government considered the ICAG to be a desirable place to fight fraudulent goods and to gain more effective support in this regard, thus initiating multilateral negotiations. During the years 1973 to 1979, during the Tokyo Round negotiations, he offered suggestions for such an agreement that was not agreed upon by the other parties. Other efforts by the government The IKA issue broke with the argument of developing countries led by Brazil and India that the GATT agreement only contains tangible goods and intellectual property issues in the jurisdiction and control of the World Intellectual Property Organization (WIPO). It is worth mentioning that in the GATT, only parts of articles 9 and 20 referring to the prevention of the entry and detention of fake goods, had nothing to do with this, there was no other binding rule and law in place to make this feeling felt by some countries (especially developed countries) Was created that GATT rules are not effective in some areas related to international trade. The main areas of this field are:

16.1. Excluding two important sectors of trade, namely agriculture and textiles, from the application of the GATT rules.

16.2. Lack of attention to the trade in services in the GATT rules and the assignment of laws only to the trade of goods.

16.3. Different national standards in support of intellectual property and the lack of full and proper implementation of standards by countries and consequently increased fraudulent goods and impediments to international investment in countries.

16.4. Failure to pay attention to intellectual property in the application of GATT rules.



#### 16.5. The weakness of the administrative and organizational system of GAT.

Eventually, after extensive industrial efforts and efforts, such as the ICA, European countries and Japan, in negotiating the Uruguay Round negotiations and the proposals that were subsequently presented by the Colombian and Swiss governments to find the appropriate solution, have addressed issues in the Declaration Ministers arrived on September 20 and paved the way for negotiations in this regard in the Uruguay Round. During the year 1989, the intellectual property negotiator group made various comments which in the early 1990's appeared in five perspectives, each of which was related to the ICA, EU, Japan, and Switzerland and developing countries. Each of the texts contained items that contradicted each other. In November 1991, a report was published by the Secretary General, in which he tried to resolve these differences as closely as possible. The program was opposed by each of the owners of the aforementioned texts but finally at the ministerial meeting in Morocco on April 15, 1994, a final agreement was reached on the text which was eventually signed by the representatives of the participating countries. In this way, the intellectual property trademark (TRIPs) agreement was formed as one of the indispensable documents of the Uruguay Round Final Document, as well as one of the pillars of the WTO agreements, along with the General Agreement on Trade in Goods and the General Agreement on Trade in Services.

#### Conclusion

Considering the seriousness of Iran's accession to the World Trade Organization as well as the process of globalization, the development, approval and implementation of intel-

lectual property laws, especially in the field of industrial property rights and in particular the rights of inventions to support the rights and the extensive activities of the inventors of the country and, most importantly, the observance of many patent-related laws, consistent with harmonized patterns, such as the agreement of the THIRIPS, is indispensable and vital in the country's legal system.

For this reason, the strong and effective support of intellectual property, especially patents, as one of the collections of industrial property rights, plays an essential role in generating incentives for inventors and product creation; therefore, the invention as a new and inevitable phenomenon results from the same innate human desire which justifies the need to support patents as a monopoly right to create the ideal platform for community development; and the idea of creating new products is reinforced only in an environment where its inventors have the necessary legal and criminal support for their products of thought.

The importance of intellectual property at the international level and the world today and the adequate support of inventors and the facilitation of international registration of rights and the development of laws and rules of support and the conclusion of agreements and international conventions, have encouraged developing countries, especially Iran, to adopt laws that are in line with Inclusive patterns such as the THIRIPS Agreement, along with other countries, are taking steps to support intellectual property, especially patent and accession to international conventions and are a clear example of this type of domestic law and law, the law of registration of trademarks and inventions approved in 1932 which harmonize and It is in good agreement with the standards and frameworks of the laws in international documents and agree-

ments, in particular the thrips agreement. Also, there is a need for more and wider patent support in many cases, such as sponsorship and training.

Because the new issues that must be supported by intellectual property and, on the other hand, are taking into account the need of societies to develop and adapt new intellectual property laws, consistent with the requirements of time that are constantly changing and for More harmonization and more internal compliance with the provisions of the thrips agreement, by amending the texts of the law, the patent law, industrial designs and trade symbols, was approved by the Islamic Consultative Assembly on 1989 which largely complied with the standards The minimum required in the terms of the agreement is the thrips. The new patent law, to a large extent, also removed the existing law of the previous law (the law of 1932). However, the importance of supporting intellectual property, especially inventions, made (especially since the 19th century) many conventions, agreements and international agreements to support These rights are ratified internationally, most notably the agreement on the commercial aspects of the intellectual property of the Thrips as one of the WTO's agreements.

### **Suggestions**

In the intellectual property law, it is assumed that creative ideas should be raised and developed, so that the owners of the monopoly of the monopoly can take advantage of their work and have a right to control the copying of their work. Despite the adoption of the patent law, industrial plans and trademarks approved in 2007, and despite the positive points in domestic law and coordination, in many cases, there are violations of the rules of the thrips agreement, deficiencies in do-

mestic law and in our legal system, especially in the field of implementation which is in line with by fixing them, suggestions are given in the following regarding intellectual property, especially in the field of inventions.

Since the issue of patent accession has a great deal of interest in the country in the field of international patent registration, it will directly lead to the scientific development of inventions and innovations. For this reason, in the Islamic Consultative Assembly, Iran's accession treaty should be exchanged with the World Intellectual Property Organization (WIPO) as soon as possible, so that the authorities take the necessary steps to speed up the agreement. According to the rules of this agreement, the validity of patents is evaluated by international scientific institutions and then supported by 140 countries in the world.

Developed countries understand the importance of the existence of inventors and elites and the necessity of flourishing thought for the sake of the development of society, hence, they invest heavily in the field of intellectual property support which is their development in favour of developing countries. Here, it is suggested that more investment be made by the government and the relevant authorities in this area, since the fundamental and fundamental consideration for strengthening knowledge and knowledge by the authorities is a necessary issue. For this reason, we need the determination of the authorities and authorities in relation to capital in our country.

The collection of laws and regulations on industrial property of Iran in the 1932 law is one of the most comprehensive and comprehensive educational measures in the law of 2002. In this area, there are many shortcomings in the new law which is suggested to be referred to the Code by the provision of rea-

son as well as other educational laws in the new law or in the above cases explicitly stipulated in the current law. Estimated.

The new law (2007) does not meet expectations, despite the correction of the shortcomings and defects of the previous law (1932) and compliance with international standards, especially the TRIP Agreement, it is suggested that, despite a series of positive changes, the previous law eliminates such bugs as the use of the disclosure technique in the award of patent certificates. Unfortunately, patents in the current law remain the same as in the past. This type of registration has turned into a system of evaluation (assessment), taking into account the current world situation and studies in different countries. It is suggested that, by joining this agreement, we should be quicker to apply for a patent than the research system, so that other countries can not easily register the inventions without scientific evaluation.

The necessity of creating a database of domestic and international registered inventions and commercial symbols, connecting universities and scientific and research centres, as well as adopting a mechanized system to new law duties and updating it, is essential and necessary. In this area, the necessary measures are taken by the responsible person.

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