

## Patents Decree

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as amended by Decrees No. 505 of June 14, 1985,  
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No. 595 of June 28, 1994 and No. 104 of February 15, 1996)

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### Patent Applications and Register of Applications

1. Finnish patent applications shall be filed with the National Board of Patents and Registration of Finland (the Patent Office).

International applications designating Finland shall be filed with an authority or international organization that is a receiving Office authorized under the Patent Cooperation Treaty done at Washington on June 19, 1970, and its Regulations. Sections 45 to 51 contain provisions on the Patent Office acting as a receiving Office.

The provisions in this Decree concerning patent applications shall apply, unless otherwise specified in a specific respect, exclusively to:

- (1) Finnish patent applications;
- (2) international applications prosecuted in respect of Finland under Section 31 of the Patents Act or accepted for prosecution under Section 38 of that Law; and

- (3) European patent applications converted into national applications pursuant to Section 70 s of the Patents Act.

2. Finnish patent applications shall contain an application document and accompanying documents.

The application document shall be signed by the applicant or his representative and shall state:

- (1) the applicant's name, domicile and address and, if the applicant has appointed a representative, the name, domicile and address of the representative;
- (2) the inventor's name and address;
- (3) a concise and factual title for the invention to which the application relates;
- (4) where a patent is applied for by several persons jointly, a statement as to whether one of such persons is entitled to receive communications from the Patent Office on behalf of all applicants;
- (4a) a statement, where appropriate, that the application includes the deposit of a culture of a microorganism under Section 8a of the Patents Act;
- (5) a list of the documents accompanying the application document.

The following documents shall accompany the application document:

- (1) a description of the invention together with the drawings, if any, needed to understand the invention, the claims and an abstract;
- (2) if the applicant has appointed a representative, a separate power of attorney for the representative if the representative has not been given authorization in the application document;
- (3) if the invention has been made by someone other than the applicant, a deed establishing the applicant's title to the invention.

The prescribed application fee shall be paid when filing an application.

3. If the document is not written in one of the languages laid down by the fifth paragraph of Section 8 of the Patents Act, the applicant shall also submit to the Patent Office a translation of the document into Finnish or Swedish. For a document other than a description, abstract or claims or for the text of the description or claims of a Finnish application not included in the basic documents under the first paragraph of Section 21, the Patent Office may waive the requirement for a translation or may accept a translation into a language other than Finnish or Swedish.

4. The description, abstract and claims shall be in black type or black print on white paper, size A4 (210 mm×297 mm).

Drawings shall be executed in dark, preferably black, lines on a light, preferably white, background on durable material, size A4. The description, with accompanying drawings if any, and the claims and abstract shall be submitted in a form suitable for printing.

Information on further requirements concerning the form of the document and the number of copies to be filed with the Patent Office by the applicant shall be given by the Patent Office.

5. If he wishes a novelty search to be carried out under Section 9 of the Patents Act, the applicant shall make a written request within three months of the filing date of the application or, where applicable, of the date on which it is deemed to have been filed, to the Patent Authority and shall pay the fee prescribed by the Searching Authority. Where the application is not drawn up in a language acceptable to the Searching Authority, the request shall be accompanied by a translation of the application into a language prescribed by the Patent Authority.

If the search referred to in the first paragraph can be carried out by more than one authority and if the applicant wishes to specify which of such authorities is to carry out the search, he shall name that authority in his request.

The request shall be deemed withdrawn if, on expiration of the time limit laid down in the first paragraph, the application and the translation do not satisfy the formal requirements for an international application.

6. The Patent Office shall enter on the application the date on which it was received at the Patent Office.

7. The Patent Office shall keep a register of patent applications received. The register shall be accessible to the public.

The following particulars shall be recorded in the register for each application:

- (2) the name of the examiner processing the application;
- (3) the name, domicile and address of the applicant;
- (4) where the applicant has appointed a representative, the name, domicile and address of the representative;
- (5) the name and address of the inventor;
- (6) the title of the invention;
- (7) a statement as to whether the application is a Finnish application, an international application or a European patent application which has been converted into a national application;
- (8) where the application is a Finnish application, the filing date and the effective date where different from the filing date;
- (9) where the application is an international application, the international filing date and the date on which the application was pursued under Section 31 of the Patents Act or was filed under Section 38 of that Law;
- (9a) where the application has been converted from a European patent application into a national application, the filing date in accordance with the European Patent Convention (Finnish Treaty Series 117/96) and the date on which the application was received by the Patent Office for conversion;
- (10) where the priority of an earlier application is claimed, the country where the earlier application indicated as the basis for the priority was filed, the filing date of that application and its serial number;
- (11) where the application results from division or separation, the serial number of the parent application;
- (12) where a new application results from the division or separation of the application, the serial number of the application that has been divided or separated;
- (13) where the application has been made available to the public under the third paragraph of Section 22 of the Patents Act, the date on which it became available;
- (14) where the application is an international application, the international application number;
- (14a) where the application has been converted from a European patent application into a national application, the application number of the European patent application;
- (15) the documents filed and fees paid in respect of the application;
- (16) decisions taken in respect of the application.

8. The Patent Office shall prepare a weekly list of patent applications that have been filed. The list shall contain for each application the particulars listed in the second paragraph of Section 7 under items (1), (3), (5) to (11), (14) and (14a).

The Patent Office shall further prepare a weekly list of international applications that designate Finland, on the basis of the information received from the International Bureau of the World Intellectual Property Organization. The list shall contain, as far as possible, for each application the particulars listed in Article 30(2)(b) of the Patent Cooperation Treaty.

The Patent Office shall further prepare a weekly list of published European patent applications on the basis of the information received by the Office from the European Patent Office. The list shall contain for each application the data listed in Article 128(5) of the European Patent Convention.

These lists shall be accessible to the public on payment of a prescribed fee.

9. Where notice is given that an invention for which a patent has been sought has been assigned to another person, the latter person shall be recorded as the applicant in the register of applications only if proof of the assignment is furnished.

## Priority

10. To enjoy priority under Section 6 of the Patents Act, the applicant must claim priority in writing within three months of the date on which the application was filed or is deemed to have been filed simultaneously stating where and when the application given as a basis for the priority was filed and, as soon as possible, its serial number. In the case of an international application, the priority claim shall be made in the application itself, stating the place and date the application given as the basis for priority was filed and, in the case of an international application, at least one country designated in such application. In such case, the serial number of the application given as the basis for priority shall be communicated to the receiving Office for the international application or to the International Bureau of the World Intellectual Property Organization within 16 months from the priority date which is claimed.

Where the application is divided under Section 22, a claim to priority in respect of the parent application shall also apply, without separate request, to the new application resulting from division.

11. An applicant who has claimed priority shall, within 16 months of the date for which priority is claimed, file with the Patent Office a certificate issued by the authority with which the application for which priority is claimed was filed, stating the filing date of the priority application and the applicant's name and also a copy of the application certified by that same authority. The copy shall be filed in the form prescribed by the Patent Office.

However, for an international application, the certificate shall be filed only after the Patent Office has issued the corresponding official action. For such application the priority document may also be filed in accordance with Rule 17.1 of the Regulations under the Patent Cooperation Treaty with the International Bureau referred to in Section 8 or with the authority that received the application, or a request may be made to such latter authority to forward the priority document to the International Bureau.

The Patent Office may grant an exemption from the obligation to file the certificate and the copy referred to in the first paragraph.

Where a copy of an application that is the basis for the priority of an international application has been filed with the International Bureau referred to in the first paragraph, the Patent Office may only require a copy and a translation of such copy in accordance with Rule 17.2 of the Regulations under the Patent Cooperation Treaty.

12. Priority may only be based on the first application in which the invention was disclosed.

If the person who filed the first application or his successor in title has filed a subsequent application with the same patent authority, relating to the same invention, the subsequent application may be cited as a basis for priority, provided that at the time of filing of the later application the earlier application was withdrawn, dismissed, or rejected without having become available to the public and without there being any rights subsisting, and had not served as a basis for priority. Where priority has been obtained on the basis of the subsequent application, the prior application may no longer serve as a basis for claiming priority.

The provision in the second paragraph shall apply *mutatis mutandis* to an application whose filing date has been amended.

13. Priority may also be obtained for a part of an application.

An application may claim priority deriving from several earlier applications even where they relate to differing countries.

## **Claims**

14. The claims shall contain:

- (1) the title of the invention;
- (2) a statement identifying the art in relation to which the invention is new (prior art), where necessary;
- (3) a statement of the new and characteristic features of the invention.

Each claim may relate to one invention only.

Where possible, the invention shall relate to one of the following categories: product, apparatus, process or use.

A claim may not contain any matter irrelevant to the invention disclosed therein or irrelevant to the exclusive right claimed by the applicant.

15. An application may contain more than one claim. Where the application includes more than one claim, they shall be arranged and numbered consecutively.

A claim may be independent or dependent. A dependent claim is a claim that relates to an embodiment of the invention disclosed in another claim of the application and which, therefore, comprises all the features of that claim. All other claims are independent.

One or more dependent claims may relate to one claim. A dependent claim may refer to several preceding claims. It shall begin with a reference to a preceding claim and shall state the additional features characterizing the invention.

16. Where an application contains several inventions they shall be interdependent. Inventions shall be deemed to be interdependent, if there is a technical connection between all of them in that the inventions have, in whole or in part, the same or similar special technical characteristics. The term special technical characteristics shall mean the technical characteristics contributed by each single invention going, in considering the invention as a whole, beyond the state of the art.

The question whether the inventions are interdependent shall be determined irrespective of whether they are stated in separate patent claims or as alternatives in a single claim.

## **Description**

17. The description may contain only subject matter that assists in understanding the invention.

Where a newly-coined word or a technical term that is not generally accepted has to be used, such term shall be explained. The designations and units of measure may not depart from those in general use in the Nordic countries.

Where the application includes the deposit of a culture of a microorganism under Section 8a of the Patents Act, the applicant shall, on filing the application, give all relevant information regarding the characteristics of the microorganism that is available to him.

17 a. Deposits under the first paragraph of Section 8 a of the Patents Act shall be made with an institution that is an international depositary authority under the Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (the Budapest Treaty) done at it Budapest on April 28, 1977, or with another deposit authority recognized by the European Patent Office.

Deposits shall be made in accordance with the Budapest Treaty.

The Patent Office shall keep a list of the institutions that are international depositary authorities under the Budapest Treaty.

17 b. Where a microorganism has been deposited, the applicant shall inform the Patent Office in writing, within 16 months of the filing date of the application or, where priority is claimed, of the date of the claimed priority, of the institution with which the deposit has been made, the date on which the deposit was made and the access code given to the deposit by that institution. For international applications, the information may be submitted, within the same time limits, to the International Bureau referred to in Section 8. Where the applicant requests that the application documents be made available to the public earlier than provided for in the first and second paragraphs of Section 22 of the Patents Act, the information referred to in the first paragraph shall be submitted, at the latest, together with the request. Where the applicant requests early publication of an international application under Article 21(2)(b) of the Patent Cooperation Treaty, the information shall be submitted, at the latest, together with the request for publication.

If the deposit has been transferred from one international depositary authority to another under Rule 5.1 of the Regulations under the Budapest Treaty, the applicant shall notify the Patent Office of the transfer and of the new access code for the deposit.

The Patent Office may require a copy of the receipt for the deposit issued by the institution as proof of the information referred to in the first and third paragraphs.

17 c. A new deposit as referred to in the second paragraph of Section 8a of the Patents Act shall be made in accordance with the provisions for new deposits under the Budapest Treaty.

New deposits shall be made within three months of the date the depositor receives notification from the international depositary authority that samples of the previous deposit can no longer be furnished. Where the institution has ceased to act as an international depositary authority for the kind of microorganism to which the deposit belonged or if it has ceased to fulfill its obligations under the Budapest Treaty and the depositor has not received notification to such effect within six months of the announcement thereof published by the International Bureau, a new deposit may nevertheless be made within nine months of the said published announcement. As far as other depositary institutions are concerned, the period of time for making the deposit stated above begins once the European Patent Office has published a corresponding announcement of the matter.

Within four months of making the new deposit, the depositor shall submit to the Patent Office a copy of the receipt issued for the new deposit by the institution. However, if the time limit laid down in the first or second paragraph of Section 17b expires at a later date, the receipt may be submitted within such later time limit. When submitting the receipt, the number of the application or patent to which the deposit relates shall be stated.

## **Abstract**

18. The abstract of a Finnish application shall be based on the description and claims as set out in the documents that constitute the basic documents pursuant to the first paragraph of Section 21 or the first paragraph of Section 24. The abstract shall contain the title of the invention and shall be drafted with sufficient clarity to disclose the technical problem to which the invention relates, the principles of the solution provided by the invention and the primary field in which the invention is to be used.

The final wording of the abstract shall be determined, wherever possible, before the application is made available to the public under the second paragraph of Section 22 of the Patents Act.

Where an international application or a European patent application converted into a national application contains an abstract confirmed by the International Searching Authority or the European Patent Office, the wording of that abstract shall be accepted. Where this is not the case, the Patent Office shall also confirm the abstract of such application. In the latter case, the provisions of the first paragraph shall be applicable.

## **Amendments to Applications**

19. Claims may not be amended to include subject matter not disclosed in a document constituting a basic document under the first or second paragraph of Section 21 or the first paragraph of Section 24. Where a claim is amended to add new features, the applicant shall at the same time state where those new features are to be found in the basic document.

Once the Patent Office has issued a novelty search report, no claim disclosing an invention that is independent of the invention disclosed in the previous claims may be included in the same application.

For international applications no novelty search report shall be issued before the period of time laid down in Section 52b has expired, unless the applicant agrees thereto.

An applicant may make amendments or additions to the description and drawings only where they are necessary according to Section 8 of the Patents Act.

Such amendments or additions may not make the claim encompass matters other than those that are to be found in the basic documents.

20. Unless otherwise permitted by the Patent Office, amendments or additions to the claims shall be made by filing a new document setting out all the claims in sequence.

21. For the purposes of this Decree the basic documents for a Finnish application, an application prosecuted under Section 38 of the Patents Act and a European application converted into a national application shall be deemed to be the Finnish or Swedish language description, with drawings if any, and the claims contained in the application as filed or as deemed to have been filed. If those documents were not included in the application at that time, the first Finnish or Swedish language description and claims subsequently filed shall be deemed to be the basic documents if the content of those documents clearly corresponds to the content of the documents held by the Patent Office at that time.

The basic documents for international applications pursued under Section 31 of the Patents Act shall be deemed to be:

- (1) the translation of the description, drawings and claims, where translation is required to pursue the application, filed under Section 31 of the Patents Act, including any amendments made before the time limit laid down in Section 52b has expired; or
- (2) the copy of the description, drawings and claims filed under Section 31 of the Patents Act where the application was drafted in Finnish or Swedish.

If it is stated at the time of filing an application that an application for protection of the invention has been filed with a foreign patent authority, a subsequently filed certified copy of the foreign application shall be deemed to have been filed with the Patent Office at the same time as the filing of the application with the Finnish Patent Office, provided that the filing date and serial number of the foreign application have been indicated.

## **Division and Separation**

22. Where more than one invention has been disclosed in the basic documents, the applicant may divide the application into more than one application.

In such case, a new application relating to an invention divided from the original application (parent application) shall, at the applicant's request, be deemed to have been filed at the same time as the parent application. The new application resulting from the division may only contain subject matter that could have been included under the second paragraph of Section 19 of the Patents Act in the claims of the parent application at the time the new application was filed with the Patent Office.

If the application is divided on the ground that it comprises two or more mutually independent inventions, the new application shall be considered to have been filed at the same time as the parent application only where the new application is filed no later than four months after the corresponding limitation was made to the parent application.

23. Where, as a result of an addition to the description or claims or for some other reason, the application has been amended to disclose an invention that was not disclosed in the basic documents, a new application relating to such invention, filed by separation from the original application (parent application), may, at the applicant's request, be deemed to have been filed on the date when the document disclosing the invention was received by the Patent Office.

Separation may only be made under the second paragraph of Section 19 of the Patents Act and only on condition that protection is claimed in the new application only for subject matter that was disclosed in the documents of the parent application when the later document was filed.

24. In the event of division or separation, the description, the drawings and claims filed at the same time as the documents of the new application shall be deemed to constitute the basic documents.

A new application may be considered to result from division or separation only if this is evident from the application when filed. The serial number of the parent application shall be stated in such divisional or separated application.

### **Availability to the Public**

25. Where the application documents have become available to the public under the second or third paragraph of Section 22 of the Patents Act prior to having been laid open for public inspection, the abstract shall be printed as soon as its final wording has been determined. The Patent Office may also decide to print other parts of the application together with the abstract. These documents shall be available to any person on payment of the prescribed fee.

The notification under the fourth paragraph of Section 22 of the Patents Act shall state the serial number and classification of the application, its filing date, the effective date, if different from the filing date, the title of the invention and the name and address of the applicant and of the inventor. Where priority has been claimed, the notification shall also state where the relevant prior application was filed, together with the filing date and serial number of such prior application. If the application includes the deposit of a culture of a microorganism, this shall be stated in the notification. If the applicant has requested under the seventh paragraph of Section 22 of the Patents Act that samples of the deposited culture be issued only to a special expert, this fact should also be stated in the notification.

If the translation of the description or claims in an international application has been amended within the time limit laid down in Section 52b, but after the documents have become available to the public, such amendment shall be notified.

25 a. A request made under the first sentence of the eighth paragraph of Section 22 of the Patents Act to obtain a sample of a deposit shall be formulated as prescribed in Rule 11 of the Regulations under the Budapest Treaty.

If the request is for a sample of a deposit relating to a patent application on which no final decision has been taken, a person wishing to obtain a sample shall give an undertaking to the applicant that the sample will not

be used for other than experimental purposes and will not be made available to anyone else before a final decision is given on the application or, if a patent has been granted, before the patent has expired.

If the request is for a sample of a deposit relating to a patent, the person wishing to obtain a sample shall declare in an undertaking to the owner of the patent that the sample will not be made available to anyone else before the patent has expired.

The same undertaking as is prescribed with respect to a sample shall also be given with respect to cultures derived from the sample which have retained those characteristics of the deposited culture that are essential for carrying out the invention.

The undertaking shall be attached to the request.

25 b. A request made under the seventh paragraph of Section 22 of the Patents Act that samples should only be issued to a special expert must be made within 16 months of the filing date of the application or, where priority is claimed, of the claimed priority date.

The Patent Office shall draw up a list of those persons who have stated their willingness to assume assignments as experts and who are suitable for such a task. A decision on the persons chosen for inclusion in the list of experts shall be notified as prescribed in Section 43. Where a sample may be issued only to a special expert, the request for the sample shall state the person to be called upon as an expert. The request shall be accompanied by a written undertaking from the expert to the applicant corresponding to the undertaking prescribed by the second and fourth paragraphs of Section 25a.

Any person included in the list, or accepted by the applicant in a particular case, may be called upon as an expert.

25 c. Notwithstanding the undertakings required under Sections 25a and 25b of this Decree, a derived culture may be deposited for the purposes of a new patent application if it is necessary to deposit the culture for such purpose.

25 d. Where a request has been made for a sample and neither the Patents Act nor this Decree preclude the furnishing of a sample, the Patent Office shall issue a certificate to that effect. The Patent Office shall forward the request for the sample and the certificate to the institution where the deposit is kept. The Patent Office shall at the same time forward to the applicant or the owner of the patent a copy of the request and of the certificate.

Where the Patent Office decides that a certificate as referred to in the first paragraph cannot be issued, it shall give notice of that decision. The person who has requested the sample may lodge an appeal against such decision with the Board of Appeals of the Patent Office within 60 days of the date on which the decision was communicated to the appellant, not counting the date of communication. There shall be no appeal from the decision of the Board of Appeals.

## **Processing of Patent Applications**

26. When examining whether the conditions for granting a patent laid down in Section 2 of the Patents Act have been satisfied, the Patent Office shall consider all facts that come to its attention.

The examination at the Patent Office shall be carried out on the basis of patent specifications, published specifications and published applications, or abstracts thereof, from Finland, Norway, Sweden, Denmark, the United States of America, the United Kingdom, France, the Federal Republic of Germany, the former German State and the European Patent Office, or on the basis of publicly available international applications or abstracts thereof as well as applications that have become available to the public in Finland. Other available literature may also be examined if found necessary.

The Patent Office shall issue more detailed rules regarding the conduct of the examination. Where particular circumstances require, such rules may differ from the provisions of the second paragraph.

27. Where necessary for the examination of applications, the Patent Office may use the services of experts not belonging to the staff of the Patent Office.

28. The Patent Office may call upon an applicant to submit a model, sample or the like, or to carry out investigations or experiments, if necessary in order to evaluate an invention.

29. Anyone who applies for a patent in Finland in respect of an invention for which he has sought a patent from a foreign patent authority shall be required, with the limitations laid down in the third paragraph of Section 74 of the Patents Act, to report what such foreign authority has communicated to him concerning the novelty or patentability examination of the invention. The Patent Office may require him, by official action, to file a copy of such communication or a declaration that no information concerning the examination of the previous application has been received.

If the examination of an application is carried out by a foreign authority in accordance with the second paragraph of Section 74 of the Patents Act, and if the Finnish Patent Office has concluded an agreement with such authority to exchange examination results and other information, the Patent Office may defer examination of an application that corresponds to an application filed previously with such foreign patent authority until the latter application has been prosecuted to the extent provided for in the agreement.

The Patent Office shall be authorized to communicate documents in respect of applications that have not yet become public to a patent authority with which an agreement has been concluded in accordance with the second paragraph, provided that the patent authority concerned has undertaken not to make such documents available to the public.

30. The Patent Office shall issue rules on time limits and extensions of time limits. Deferred laying open of an application to public inspection may only be granted, however, if the application was accepted for laying open to public inspection prior to its becoming available to the public under Section 22 of the Patents Act. In such case, laying open to public inspection may be deferred at the applicant's request until the time the application becomes available to the public under the above-mentioned Section of the Law.

## **Laying Open to Public Inspection**

31. Printing of the description, together with the drawings, if any, the claims and the abstract for the Section 21 of the Patents Act (published specification) shall be effected by the Patent Office. Printing shall begin as soon as possible after the application is accepted.

The published specification shall bear the date of its publication and shall state:

- (1) the serial number of the application and the classes assigned to it;
- (2) the name, domicile and address of the applicant;
- (3) the name of the representative appointed by the applicant, if any;
- (4) the name and address of the inventor;
- (5) whether the application is a Finnish application, an international application or a European patent application converted into a national application;
- (6) where the application is a Finnish application, the filing date of the application and its effective date if different from the filing date;

- (7) where the application is an international application, the international filing date and the date on which the application was pursued under Section 31 of the Patents Act or was received under Section 38 of the Patents Act;
- (7a) where the application has been converted from a European patent application into a national application, the filing date under the European Patent Convention and the day the application was received by the Patent Office for conversion;
- (8) any claimed priority and where the earlier application on which priority is based was filed, the filing date for the said application and its number;
- (9) where the application is an international application, the international application number;
- (9a) where the application has been converted from a European patent application into a national application, the application number of the European patent application;
- (10) where the application results from division or separation, the serial number of the parent application;
- (10a) whether the application includes the deposit of a culture of a microorganism;
- (11) the references of the citations.

32. The notification of laying open to public inspection referred to in Section 21 of the Patents Act shall contain the title of the invention and the information that is to be given in the published specification in accordance with Section 31, with the exception of the references of the citations.

33. Any opposition lodged against an application and any subsequent communications, together with attachments, from the applicant or the opponent shall be filed in the number of copies required by the Patent Office.

When opposition is lodged, the grounds for opposition shall be stated.

34. Where the opponent has appointed a representative, the representative's powers of attorney shall be filed with the Patent Office.

35. Copies of all communications filed by the opponent shall be transmitted to the applicant.

If the applicant files a counterstatement in respect of the opposition, the Patent Office shall decide on the need for a further exchange of communications.

36. If, during the examination of the application, a communication is filed with the Patent Office outside the time limit laid down for lodging opposition, and if the communication is of importance for the examination of the application, the applicant shall be notified thereof. If such communication has been submitted before the application is laid open to public inspection and if the communication does not concern better title to the invention, the Patent Office shall notify the party which submitted the communication of the possibility of lodging an opposition if the application is laid open to public inspection.

### **Issue of Detailed Rules**

37. The Patent Office shall issue more detailed rules on applications and their prosecution.

### **Patent Register**

37 a. The Patent Register shall contain information on patents granted by the Patent Office and on European patents having legal effect in Finland.

38. Once a patent has been granted, it shall be recorded in the Patent Register.

In that connection, the following particulars shall be recorded in the Patent Register:

- (1) the serial number of the application, the serial number of the patent and the classes assigned to the patent;
- (2) the name, domicile and address of the proprietor of the patent;
- (3) where the owner of the patent has appointed a representative, the name, domicile and address of the representative;
- (4) the name and address of the inventor;
- (5) the following dates:
  - (a) if the patent is based on a Finnish application, the filing date of the application and the date on which the term of the patent begins if not identical with the filing date of the application;
  - (b) if the patent is based on an international application, the international filing date or the date on which the application is deemed to have been filed pursuant to the third paragraph of Section 38 of the Patents Act;
  - (c) if the patent is based on a European patent application converted into a national application, the filing date under the European Patent Convention and the date on which the application was received by the Patent Office for conversion;
  - (d) the date on which the application documents became available to the public;
  - (e) the date on which laying open to public inspection was notified pursuant to Section 21 of the Patents Act;
  - (f) the date on which the patent was granted;
- (6) the claimed priority, together with the place the application given as the basis for priority was filed, the filing date of that application and its serial number;
- (7) where the patent was granted on the basis of an international application, the international application number;
- (7a) where the application has been converted from a European patent application into a national application, the application number of the European patent application;
- (8) the title of the invention;
- (9) where the application includes the deposit of a culture of a microorganism, the name of the institution where the deposit is kept and the access code given to the deposit by that institution.

38 a. A European patent shall be recorded in the Register once the European Patent Office has published a notification of the grant of the patent and the applicant has supplied the translation and paid the fee under the first paragraph of Section 70 h of the Patents Act.

In this connection, the following particulars shall be recorded in the Register:

- (1) the date on which the European Patent Office has announced its decision to grant the patent;
- (2) the date on which the translation and payment of fee under the first paragraph of Section 70 h of the Patents Act were received and the date on which the notification of the translation was published;
- (3) the date on which the patent term begins; and
- (4) the particulars corresponding to the ones specified in subparagraphs 1 to 4, subparagraph 5, items b and d, and subparagraphs 6, 7 and 8 of the second paragraph of Section 38.

If the European Patent Office has taken a final decision to revoke a European patent or maintain a European patent with amended wording, this fact shall be recorded in the Register. If the patent holder, in cases where the patent is maintained with amended wording, submitted the translation and paid the prescribed fee under Section 70 h, first paragraph of the Patents Act, this fact shall be recorded in the Register.

If a correction is filed of the translation referred to in the first and third paragraphs above, the date this has taken place and the date of public notification of the correction shall be recorded in the Register.

39. The notification under Section 26 of the Patents Act concerning the grant of a patent shall give the serial number and classification of the patent, the title of the invention, the name of the owner of the patent, the serial number of the application and the date on which laying open for public inspection was notified pursuant to Section 21 of the Patents Act.

40. Payment of an annual fee or respite granted for payment of an annual fee shall be recorded in the Register. If a patent has lapsed pursuant to Section 51 of the Patents Act, the date as from which the patent ceases to be valid shall be recorded in the Register.

A request under Section 71a of the Patents Act that an annual fee be deemed to have been paid within the due time limit shall be recorded in the Register without delay. The final decision on such request shall also be recorded.

41. Any notification made to the Patent Office that a person has taken legal action to have a patent declared invalid, to have a patent transferred or to obtain a compulsory license shall be recorded in the Register.

The communication of copies of court decisions to the Patent Office in accordance with Section 70 of the Patents Act shall be recorded in the Register.

Once the decision becomes final, a note shall be made in the Register in such a way that the main findings of the case are apparent in the Register.

The declaration by the Patent Office that a patent is terminated under Section 54 of the Patents Act shall be recorded in the Register.

42. Entries under Section 44 of the Patents Act concerning the transfer of a patent or the grant of a license or a mortgage shall include the name, domicile and address of the owner of the right and the date of the transfer or grant of the license or rights.

In the case of a license, it shall be stated, on request, whether the right of the owner of the patent to grant additional licenses has been limited. Where it is not possible to take an immediate decision on the recording of the transfer or grant of a license or other right, an entry shall nevertheless be made in the Register that a request has been made.

Seizure of a patent to cover a debt shall be recorded in the Register when reported.

Any change reported in respect of a representative shall be recorded in the Register.

Where the Patent Authority receives notification of transfer of a deposit under the third paragraph of Section 17b or the receipt of a new deposit of a microorganism under the third paragraph of Section 17c, the transfer or new deposit shall be recorded in the Register.

### **Notifications by the Patent Office**

43. Notifications in respect of patents shall be published in a publication issued by the Patent Office.

### **Special Right to Take Legal Action**

44. Legal proceedings under the third paragraph of Section 52 of the Patents Act shall be instituted by the Public Prosecutor, unless the Government appoints another official in a specific case.

## **Receiving Office for International Applications**

45. The Patent Office shall be the receiving Office for international applications where the applicant or one of the applicants is a national of Finland, a natural person domiciled in Finland, a legal entity constituted according to Finnish law or anyone who carries on business in Finland.

46. In its capacity as a receiving Office, the Patent Office shall receive, check and transmit international applications in accordance with the Patent Cooperation Treaty and its Regulations.

The following fees shall be payable to the Patent Office:

- (1) the basic fee referred to in Rule 15.1 of the Regulations under the Patent Cooperation Treaty, within one month of receipt of the application;
- (2) the designation fee referred to in Rule 15.1, within one year of the international filing date of the application or, if priority is claimed, the claimed priority date; however, the fee may be paid within one month of receipt of the application in all cases;
- (3) the search fee referred to in Rule 16.1, within one month of receipt of the application;
- (4) the transmittal fee for handling the application by the Patent Office as a receiving Office, within one month of receipt of the application.

If the amount of the basic fee or of the designation fee has been increased after receipt of the application, but prior to making the payments, the fee may be paid without increase if it is paid within one month of receipt of the application.

If the fee referred to in the second paragraph has not been paid within the prescribed time limit or if it has not been fully paid on expiry of the time limit, the Patent Office shall invite the applicant to pay the outstanding amount within one month of issuing the invitation.

47. At the applicant's request and on payment of a specifically prescribed fee, the Patent Office shall ensure that a copy of an application previously filed with the Patent Office is transmitted under Rule 17.1(h) to the International Bureau referred to in Section 8. The fee shall be paid within the time limit for making the request under the above-mentioned Rule.

48. International applications filed with the Patent Office shall be submitted in a single copy. They shall be drafted in Finnish, Swedish or English or in any other language accepted by the Patent Office. The application document for an international application may be in the English language even where the actual application is drafted in Finnish or Swedish.

49. A separate register shall be kept of international applications filed with the Patent Office. The register shall not be available to the public.

50. An applicant not domiciled in Finland shall be required to appoint a representative residing in the country, entitled to represent him before the Patent Office in matters concerning the application.

51. Where not prevented by the Act on Inventions of Importance to the Defense of the Country (No. 551/67), the Patent Office shall transmit the international applications it receives to the International Bureau of the World Intellectual Property Organization, in accordance with the Patent Cooperation Treaty and its Regulations.

## **Transmitting International Applications to the International Bureau**

51 a. Where the International Bureau has been chosen to act as the receiving authority, the Patent Office shall receive and transmit the patent application to the International Bureau in accordance with the Patent Cooperation Treaty and its Regulations.

In this connection, the applicant shall pay the transmittal fee referred to in Rule 19(4) of the Patent Cooperation Treaty within one month of the receipt of the application.

## **Pursuing International Applications**

52. If an international application has been filed in a language other than those referred to in the fifth paragraph of Section 8 of the Patents Act, a translation of the application shall be required in order to pursue the application under Section 31 of the Patents Act or to request a review under the first paragraph of Section 38 of the Patents Act. In such case, the provisions of Section 3 of this Decree concerning the translation shall be complied with, where applicable. The Patent Office may issue rules for exempting applicants from the requirement to file a translation in cases where an international application is pursued in part only in Finland.

52 a. If the applicant has taken all steps required by Section 31 of the Patents Act for pursuing an international application, but the Patent Office has received no notification of receipt of the application from the International Bureau, the Patent Office shall notify the International Bureau thereof.

52 b. The time limit referred to in Section 34 of the Patents Act shall be:

- (1) unless otherwise specified in item (2), four months from the expiration of the time limit for pursuing an international application laid down in the first paragraph of Section 31 of the Patents Act; or
- (2) if the applicant has within 19 months of the international filing date or, if priority is claimed, of the date of the claimed priority, filed a statement under the second paragraph of Section 31 of the Patents Act, four months from the expiry of the 30-month time limit laid down in the said Section.

52 c. The request for review under the first paragraph of Section 38 of the Patents Act shall be filed within two months of the date on which the receiving Office or the International Bureau has notified the applicant of the decision referred to in that paragraph.

If the applicant can prove that he received the notification under the first paragraph more than seven days after the date of the notification, the time limit shall be extended for as many days as have elapsed between the date of the notification and the date on which the applicant received the notification. However, the seven days referred to above shall be subtracted from the term.

## **Supplementary Protection Certificates for Medicinal Products**

52 d. 'Supplementary protection certificate' refers to the supplementary protection certificate for medicinal products in accordance with Section 70 a (594/94) of the Patents Act.

'Council Regulation' refers to Council Regulation (EEC) No 1768/92 concerning the creation of a supplementary protection certificate for medicinal products with the amendments and additions made to it by decision No. 7/94 of the joint committee of the EEA.

52 e. An application concerning a supplementary protection certificate shall be filed in writing and submitted in two copies.

The application document shall be signed by the applicant or his representative and shall state, besides the matters referred to in Article 8 of the Council Regulation, the following information:

- 1) where a supplementary protection certificate is applied for by several persons jointly, a statement as to whether one of such persons is entitled to receive communications from the Patent Office on behalf of all applicants; and

- 2) where the applicant has applied for a supplementary protection certificate for the product in another member state of the European Economic Area, the number of such application and the name of the authority that will process the application.

In addition, the applicant shall provide the Patent Office with any additional information on the product where this is necessary from the point of view of processing the application.

52 f. The application shall be written in Finnish or Swedish in compliance with the applicable language laws. If a document accompanying the application is drafted in a language other than those mentioned above, the Office may require that a translation be provided in either Finnish or Swedish.

52 g. The Patent Office shall keep a register of applications received. In addition to the details listed in Article 9(2) of the Council Regulation, the following particulars shall be recorded in the register for each application:

- 1) the serial number and filing date of the application;
- 2) where the applicant has appointed a representative, the name, domicile and address of the representative;
- 3) the communications filed and fees paid in the case; and
- 4) the decisions taken in the case.

The register and the documents concerning the application shall be accessible to the public.

52 h. Provisions concerning publication of a notification of the application for a supplementary protection certificate are laid down in Article 9 of the Council Regulation. The notification shall also contain the serial number and filing date of the application for a supplementary protection certificate.

52 i. An application for a supplementary protection certificate may not be amended to relate to another product or another basic patent.

52 j. On processing the application, the Patent Authority does not verify that the application meets the conditions laid down in Article 3 (d).

52 k. The provisions of Sections 15 and 16 of the Patents Act apply to the time limits referred to in Article 10 (3).

52 l. Notification of the fact that a supplementary protection certificate has been granted shall be published by the Patent Authority. The notification shall contain, in addition to what is laid down in Article 11 of the Council Regulation, information of the serial number and filing date of the application and the registration number of the certificate.

The supplementary protection certificate shall contain the particulars referred to in paragraph 1 above.

52 m. The Patent Authority shall keep a register of supplementary protection certificates granted. In the register shall be recorded the particulars referred to in Section 52 l, paragraph 1 of the Patents Decree and, where the owner has appointed a representative, the name, domicile and address of the representative. In addition the provisions of Sections 40 to 42 of the Patents Decree shall apply.

52 n. Where an application for a supplementary protection certificate has been rejected or dismissed by a final decision, this fact shall be notified. The notification shall contain the particulars referred to in Section 52 h above.

52 o. The prescribed annual fee shall be paid for a supplementary protection certificate for each fee year commencing after the expiry of the term of the basic patent.

In addition, the provisions of paragraphs 1 and 3 of Section 41 of the Patents Act apply *mutatis mutandis* in respect of the payment of annual fees.

52 p. An applicant for and owner of a supplementary protection certificate not domiciled in Finland shall appoint a representative domiciled here as laid down in Sections 12 and 71 of the Patents Act.

## **Receiving European Patent Applications**

52 q. If a European patent application is filed with the Patent Authority, this shall, in accordance with Rule 24(2) and (3), of the Regulations under the European Patent Convention, shall indicate the date of filing on the documents of the application, issue a receipt for the documents and notify the European Patent Office thereof.

The application shall be transmitted to the European Patent Office in accordance with Article 77 of the European Patent Convention and Rule 15(3) of the Regulations of the Convention, unless otherwise specified in the Act on Inventions of Importance to the Defense of the Country (No. 551/67).

## **Converting European Patent Applications into National Applications.**

52 r. If the Patent Authority, under Article 136(2) of the European Patent Convention, receives a request for conversion, the Patent Authority shall immediately transmit the request together with a copy of the application to the Patent Authorities of the countries specified in the request.

52 s. If the Patent Authority receives a European patent application which has been transmitted there for conversion into a national application under Article 136 of the European Patent Convention, the Patent Authority shall inform the applicant thereof without delay.

The application fee and translation under the first and second paragraph of Section 70s of the Patents Act shall be received by the Patent Authority within three months of the date on which the notification under the first paragraph above was sent to the applicant. The application fee shall be computed in the same manner as the application fee under Section 8 of the Patents Act.

## **Diary to be kept of European Patent Applications**

52 t. The Patent Authority shall keep a separate diary, open to the public, of European patent applications for which translations pursuant to Section 70 n of the Patents Act have been filed.

The particulars to be entered in the diary in respect of each application include the application number, the applicant's name and address, and the date on which the translation or a corrected translation was received by the Patent Authority as well as the date on which a notification of the filing of the translation or a corrected translation was published. Further, the date which has been accorded as the filing date of the application and the information referred to in subparagraphs 4 to 6, 10 and 11 of the second paragraph of Section 7 shall be entered.

Once the translation under the first paragraph of Section 70 h of the Patents Act has been filed, a note to that effect as well as the date on which a notification of the filing of the translation was published shall be entered in the diary. The same shall apply to any correction of such a translation received before the patent is entered in the Patent Register.

## **Translating European Patents and European Patent Applications**

52 u. The filing of the translation and the payment of the fee under Section 70 of the Patents Act shall take place within three months from the date on which the European Patent Office has published its decision to let the patent application proceed to grant or to maintain the patent in an amended form.

The translation under the first paragraph shall comprise the title of the invention, the description, including any drawings where necessary, and the patent claims.

The translation under the first paragraph, 1st clause, of Section 70 h of the Patents Act shall be accompanied by information about the application number and the name and address of the applicant. The translation under the first paragraph, 3rd clause, of the said Section of the Patents Act, shall be accompanied by information about the number of the patent and the name and mailing address of the proprietor of the patent.

If the requirements of paragraphs 2 and 3 hereof are not complied with, the translation shall be deemed not to have been filed.

52 v. The translation under Section 70n of the Patents Act shall be accompanied by information about the number of the application, and the applicant's name and address. If that requirement is not complied with, the translation shall be deemed not to have been filed.

52 x. Notifications concerning translations under Section 70 h of the Patents Act shall contain:

- (1) the information that pursuant to the third paragraph of Section 52 u shall accompany the translation;
- (2) the classes of the patent application or the patent;
- (3) the title of the invention;
- (4) the date accorded as the filing date of the application;
- (5) the date on which the European Patent Office has published its decision to let the patent application proceed to grant or to maintain the patent in an amended form; and
- (6) if priority is claimed, where the previous application whose priority is claimed was filed and the date of filing and number of that application.

Notifications concerning translations under Section 70 n of the Patents Act shall contain:

- (1) the information that pursuant to the third paragraph of Section 52 v shall accompany the translation;
- (2) the classes of the patent application;
- (3) the title of the invention;
- (4) the date accorded as the filing date of the application;
- (5) if priority is claimed, where the previous application whose priority is claimed was filed and the date of filing and number of that application.

52 y. Correction of the translation under Section 70 q of the Patents Act shall be made by filing a new copy of the document clearly indicating the correction. The correction of the translation shall be accompanied by information about the number of the patent application or the patent and the name and address of the proprietor of the patent or the applicant, respectively, at the risk of the correction of the translation being deemed not to have been filed.

Notifications concerning corrections of translations under the first paragraph of Section 70 q of the Patents Act shall contain:

- (1) the information that pursuant to the third paragraph of Section 52 u shall accompany the translation;
- (2) the classes of the patent application or the patent;
- (3) the title of the invention;
- (4) the date on which the correction of the translation and the publication fee were received by the Patent Authority.

Notifications concerning corrections of translations under the second paragraph of Section 70 q of the Patents Act shall contain:

- (1) the information that pursuant to the third paragraph of Section 52 v shall accompany the translation;
- (2) the classes of the patent application;
- (3) the title of the invention; and
- (4) the date on which the correction of the translation was received by the Patent Authority.

## **Entry into Force and Transitional Provisions**

53. This Decree shall enter into force on October 1, 1980.

The Patents Decree (4/68) of January 4, 1968, with its subsequent amendments is hereby repealed.

[54. Where a patent application is prosecuted and decided upon in compliance with the regulations which were in force before the entry into force of the Act (407/80) Amending the Patents Act, of June 6, 1980, the previous Patents Decree referred to in Section 53, second paragraph, shall apply instead of this Decree.

Where a patent application is filed before the entry into force of this Decree, other than applications referred to in the first paragraph above, Sections 2,9 and 10 of the previous Patents Decree shall apply instead of Sections 2, 10, 11 and 17 of this Decree.

Notwithstanding Section 24, second paragraph, an application which has been filed before the entry into force of this Decree may be considered as having arisen from division or separation.

The previous Patents Decree shall apply to a patent of addition granted before the entry into force of the Act Amending the Patents Act, referred to in the first paragraph.

Section 45 of the previous Decree shall be applied instead of Section 41 of this Decree to a patent processed in accordance with Section 51 of the previous Patents Act as referred to in the first paragraph.]