

PATENT REGULATIONS (APPLICATION OF THE PATENT COOPERATION TREATY), 5756-1996

[Prepared by WIPO, 2014]

[Hebrew Version is controlling]

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Pursuant to my authority under section 194(8) of the Patent Law, 5727-1967 (Hereinafter - the Law), and with the approval of the Knesset Law, Constitution and Justice Committee, I hereby enact these regulations:

Interpretation

- (a) In these Regulations -
"Treaty", "Regulations of the Treaty", "International Application", "International Search Report", Preliminary Examination Report", International Search Authority", "International Authority for Preliminary Examination", and the "International authority" - as defined under section 48A of the Law;
"applicant" - an applicant of an International application;
"Priority Right" - as defined under section 10 of the Law.
(b) Any other terms, in as much as they are not defined by the Law, shall be interpreted in accordance with the Patent Regulations (Office Procedures,

Documents, Procedures and Fees), 5728-1968 (Hereinafter - Patent Regulations), which shall apply in any matter left unregulated by these regulations.

Filing an International Application to a Receiving Office

2. (a) An international application shall be prepared in English and submitted to the Office as a receiving Office in one of the following manners:
 - (1) On an A4 sized sheet of paper, in one copy and in the manner prescribed by the Treaty;
 - (2) On a device serving for storage of computer material, as prescribed by the Registrar; for this purpose, "computer material" - as defined by the Computer Law, 5755-1995;
 - (3) By means of the internet, in a manner prescribed by the Registrar in accordance with the Treaty, after he was satisfied that the aforesaid manner of filing meets the requirements of information security set by the Ministry of Justice; the prescriptions of the manner of filing shall be published for public knowledge on the Registrar's website.
- (b) an international application shall include a petition, description of the invention, one claim or more, drawings as needed and a summary.

Claiming Priority Right in Filing an International Application

2A. (a) a person filing an international application to a the Office as a receiving Office, he or any person preceding him in claim of right, who is claiming a priority right based on an invention for which a patent application has been filed in Israel or a member state, or for which an international application has been filed (In this regulation - previous application), in accordance with the Treaty, shall file to the Office a Priority Right Claim within 16 months of the date of the filing date of the previous application.

(b) Where a priority right is required on the basis of a previous application, the applicant shall submit to the Office or an international Office a copy of the previous application, as specified below:

(1) Where the international application has been filed as said in regulation 2(a)(1) - a certified copy shall be attached to the previous application, in the original only, or an electronic copy of such certified copy;

(2) Where an international application has been filed as said in regulations 2(a)(2) or 2(a)(3) - an electronic copy shall be attached to the certified copy of the previous application.

(c) Notwithstanding subsection (b), where the previous application a patent application filed in Israel, the Registrar may request that the Office shall transfer to the International Office the certified copy of the previous application.

International Offices

3. The Registrar shall publish on the website, as said under section 166A of the Law (Hereinafter - the website) the names of the international search authorities and the International authorities for preliminary examination under in accordance with the Treaty, with regards to an international application submitted to the Office as a receiving Office.

Manner of Filing Documents

4. Any document filed to the Office as a receiving Office, as an International search Authority and as an international authority for Preliminary Examination, shall be filed in a manner, form, and on a date prescribed by the Treaty.
5. Repealed.

Hearing on an Objection to the Examiner's Ruling that an International Application consists of more than One Invention

5A. A body of 3 examiners shall hear an objection on a ruling of an examiner that an international application consists of more than one invention, under section 48JB of the Law, and it may include the examiner whose ruling is the subject of the objection.

Fees

6. (a) The payment of any fee to the Office under these regulations shall be in new shekels and shall be deposited in the Office account in the Postal Bank which is designated for that purpose, or through the governmental payment server.
(b) The Office may request from the applicant a certification of the payment of fees; With regards to any fee paid to the Office under these regulations, except for the fees specified in sub-regulations (c), (d), (g), (h), (i), and (k), the date of payment specified on the certification of fee payment shall be considered the date of deposit to the account aforesaid under sub-regulation (a), provided that the deposit slip or the certification aforesaid shall indicate the subject for which payment was provided, and that such certification of payment of fees has been submitted to the Office within two weeks from the date of the claim.
(c) Any person who files an international application to the Office as a receiving Office shall pay to the International authority, through the Office, within one month from the date of filing such international application, an international filing fee in the rate published by the international Office, pursuant to the provisions of the Treaty.
(d) The applicant shall pay to the International Search Authority of his choosing, through the Office as a receiving Office, within one month from the

date of filing an International application, a search fee, in the rate published by the International Office, pursuant to the provisions of the Treaty.

(e) The applicant shall pay the Office a delivery fee for use of the Office; such delivery fee shall be paid on the date of payment of the international filing fee, as said under sub-regulation (c).

(f) an applicant who claims a priority right as said under regulation 2A, who requests from the Office a certified copy of a previous application which is a patent application filed in Israel, shall pay the fee prescribed for that purpose.

(g) an applicant who has filed to the Office an application to produce a preliminary examination report shall pay handling fee, at the rate prescribed by the International Office, and a preliminary examination fee; the fees under this sub-regulation shall be paid within 22 months of the date of the priority right, or within one month from the date of filing an application for a preliminary examination, whichever later.

(h) an applicant who has specified in any international application any genetic sequences, and has not filed them in accordance with the provisions of the Treaty, and was required to submit them to the Office for the purpose of producing an international search report or a preliminary examination report, shall pay the Office a late delivery fee, on the date prescribed in such request.

(i) Where the applicant was requested to pay an additional fee under sections 48J(d) or 48JA(e) of the Law, then he shall pay the Office on the date prescribed in such request.

(j) Where the fee of the fees specified under sub-regulations (c) to (e) has not been paid on time, or not paid in full, then the Registrar shall request from the applicant to make up the difference of fee and he may charge him a late fee in a rate of half of the missing sum, or in a rate equal to the delivery fee, whichever the highest, provided that the sum of the late fee to be paid shall not be double the international filing fee.

(k) Where the fee of the fees specified under sub-regulations (g) has not been paid on time, or not paid in full, then the Registrar shall request from the applicant to make up the difference of fee and he may charge him a late fee in a rate of half of the missing sum, or in a rate equal to the handling fee, whichever the highest, provided that the sum of the late fee to be paid shall not be double the handling fee.

(l) The fee amounts enumerated in this regulation, which are prescribed or published by the International Office, shall be published on the website.

(m) The payment of fees under this regulation which are collected by the Office on behalf of the International Office to the International search authority shall be transferred to them, in accordance with the obligation of the Office under the Treaty.

(n) The fees for which no rate has been prescribed under the Treaty shall be paid in accordance with the prescriptions on the matter under the second Schedule of the Patent Regulations.

Conditions for Return of International Filing Fee and Search Fee

6A. where an international application or an application to produce an international search report has been filed to the Office, and the fees enumerated in regulations 6(c) to (e) have been paid, the following provisions shall apply:

- (1) The international filing fee and the search fee shall be returned to the applicant by the receiving Office if one or more of the following cases has occurred:
 - (a) Under regulation 11(1) of the Treaty the filing date shall not be given out to the applicant;
 - (b) The application has been revoked or is considered as revoked under the provisions of the Treaty prior to the delivery of the copy of registration of an international application to the International Office;
 - (c) The application cannot be treated as an international application due to the enactment of the authorities enumerated under articles A and B of chapter Six of the Law;
- (2) Without derogating from the provisions of paragraph (1) -
 - (a) The search fee shall be returned to the applicant by the Office as an International search authority where the international application has been revoked prior to the beginning of the search;
 - (b) The search fee shall be returned to the applicant by the receiving Office where prior to the delivery of the search copy of the application to the international search authority, the application was revoked or is considered to be revoked in accordance with the provisions of the Treaty;
 - (c) Half of the search fee shall be returned to the applicant by the Office as an international search authority where the examiner used a search report, an international search report or a report in the format of an international search report preceding it during his search, whether prepared by the Office or by another international search authority to another national office, as defined by the Treaty.

Conditions for Return of a Preliminary Examination and Handling Fees

6B. Where an application to produce a preliminary examination report has been filed to the Office, and the fees enumerated under regulation 6(g), the following provisions shall apply:

- (1) the preliminary examination fee shall be returned to the applicant by the Office where the application to produce a preliminary search report cannot be treated for one of the following reasons:

- (a) the international application to the application to produce a preliminary examination report has been revoked prior to the beginning of the preliminary examination;
 - (b) the applicant was not entitled to file an application to produce a preliminary examination report to an international Office for a preliminary examination in Israel under section 48I of the Law;
 - (c) the fee was not paid in full or in part, and the applicant did not pay the missing amount after requested to do so;
 - (d) the applicant did not correct the application to produce a preliminary examination report within the period of time allotted to do so;
- (2) the handling fee shall be returned to the applicant by the Office where the application to produce a preliminary examination report cannot be treated for the following reasons:
- (a) the application to produce a preliminary examination report has been revoked prior to transfer thereof to international authority by the Office;
 - (b) the applicant was not entitled to file the application to produce a preliminary examination report to the Office under section 48I of the Law;
 - (c) the application to produce a preliminary examination report was filed after the date set to file it.

Entry to National Stage

7. (a) an international application designating Israel shall enter the national stage before the end of 30 months from the date of the international application where no claim of priority right is claimed thereunder, or before the end of 30 months from the date of the first previous application where priority right is claimed thereunder in accordance with a previous application; the time of entry to the national stage shall be the date in which the application or the information which enables the search of an international application was submitted to the Office; however, where the name of the applicant is not indicated or the national fee was not paid in accordance with section 48D of the Law, then the date of entry to the national stage shall be the date at which the aforesaid requirements were fulfilled; where the application entered the national stage, the Office shall provide the application a certificate of entry to the national stage.
- (b) On the date of entry to the national stage –
- (1) The applicant shall fill out and submit the prescribed application form in two copies, including a translation of the name of invention in Hebrew;
 - (2) The applicant shall perform the actions specified under section 48D(b) of the Law; a certified translation of the international application, in English, shall be submitted to the Office along with a copy of the international

application under section 48(d)(b)(1) of the Law, in accordance with section 48D(b)(2) of the law, in two copies, and where such application is not in English, a certified translation shall be attached thereto and for every amendment to the application which was filed in accordance with the Treaty; where the international application is in English, an additional copy thereof shall be submitted to the Office and of every amendment submitted pursuant to the Treaty;

- (3) The applicant shall notify the Office of his address for delivery of notifications in Israel and shall submit thereto an authorization to be represented by a representative in accordance with regulation 17 of the Patent Regulations, where such power of attorney is permitted as aforesaid.

Defects in Entry to National Stage

7A. (a) Where an application has entered the national stage, and one or more of the requirements enumerated under regulation 7(b) has not been met, the Registrar shall notify the applicant of the defects which were incurred.

(b) The applicant may, within three months from the date of notification of the Registrar as aforesaid under sub-regulation (A), to correct the defects for which such notification was delivered.

(c) The applicant, upon the request of the Registrar, shall attach to his application any additional document specified in the request within three months from the date thereof, including an international search report, a preliminary examination report, priority right documents and translation thereof.

Application for Re-recognition of Date of International Application

7B. (a) Where an international application has been filed to an international authority or a receiving Office after the date prescribed by the Treaty, and a priority right is claimed to an international application on the basis of a previous application, then the applicant may file an application for re-recognition of the date of the first previous application (Hereinafter – an application for re-recognition), provided that the international application was filed within 14 months from the date of the first previous application.

(b) The application for re-recognition shall be submitted, along with reasons –

(1) To the Office as a receiving office – within two months from the date in which an international application can be submitted to the Office as a receiving office.

(2) The Office as a national office – within one month from when the application could enter the national stage under regulation 7(a).

(c) Where the Registrar is satisfied that the applicant took reasonable measures to file an international application on time, he shall approve the application for re-recognition.

Application to Extend Period of Entry to National Stage

7C. (a) an application to extend a period under section 48D(c) of the Law shall be submitted to the Office along with reason therefor.

(b) Where the Registrar is satisfied that the applicant took reasonable measures so that the application enter the national stage on time, he shall approve the application of extension.

Non-Compliance with Conditions

7D. Where the applicant did not correct the defects for which a notification was delivered to him as aforesaid under regulation 7A(a), where he did not attach the documents as aforesaid under regulation 7A(c), or where he has not filed an application for re-recognition as aforesaid under regulation 7B or an application for extension of entry to the national stage as aforesaid under regulation 7C, then he shall be considered as though he did not remove any defects for which a notification was delivered to him under section 20 and 21 of the Law.

Early Examination of the Request

8. An applicant who wishes to request for an examination of an application prior to entry of an international application to the national stage as aforesaid under regulation 7(a), shall file an application in accordance with regulation 35 of the Patent regulations after he complies with the conditions of regulation 7.

Translation for Purpose of Granting Priority Right

9. A person who claims priority right for an international application, based on a previous application which is not prepared in English or Hebrew, shall submit a certified translation thereof to Hebrew or English, within three months from the date at which the Registrar is required to do so.

Reservation on the Application of the Patent Regulations

10. (a) Regulations 11, 12, 19, 20(b), 21, 23 to 25 and 28 to 31 of the Patent Regulations shall not apply to an international application.
(b) Regulation 8 to the Patent Regulations shall not apply with regards to a fee paid under regulation 6 of these regulations.
(c) The following provisions shall apply with regards to an international application filed to the Office as a receiving office and an application to produce an international search report and an application to produce a preliminary examination report:
 - (1) Notwithstanding regulation 16 of the Patent Regulations, the Registrar may be notified of an address for delivery of the applicant's documents or of any person authorized to represent him with regards to the subject of

the international application before the national Office through which such international application was filed; for this purpose, "address" - including an electronic mailing address, where the recipient requested to receive notifications to an electronic mailing which he provided; a notification which was delivered to an electronic mail as aforesaid, shall be considered as a notification which was delivered to the recipient on the date and time of delivery as indicated by the internal clock of the computers systems of the Office which is calibrated in accordance with the standard rules, unless otherwise proven;

(2) Notwithstanding regulation 17 of the Patent Regulations, power of attorney as said in such regulation shall be required only in the following:

- (a) Where the action is performed by the proxy whose details are not provided in the petition in accordance with regulation 2(b);
- (b) Upon filing a notification on the fact of revocation of an international application;
- (c) Upon filing a notification on the fact of cancelation of the designation of the international application to a specific national office;
- (d) upon filing a notification on the fact of revocation of a priority right claim;
- (e) Upon filing a notification on the fact of revocation of an application to produce a preliminary examination report.