

**Decree of the President of the Republic
on the Simplification of Administrative Procedures
in the Field of Patents for Inventions, Utility Models,
Industrial Designs and Trademarks**

**(No. 540 of June 30, 1972,
as amended by Decree of the President of the Republic
No. 338 of June 22, 1979)***

1. Applications for patents for inventions, utility models, industrial designs and trademarks,¹ applications for recordings of acts concerning patent applications or patents, requests and documents concerning priority rights and appeals shall be filed not only with the Central Patent Office but also with such public offices or departments as have been specified by decree of the Minister of Industry, Commerce and Handicrafts. The Minister shall also determine by decree the days and hours when all such offices or departments shall be open to the public.

Upon receipt of the application or documents, the aforesaid offices or departments shall draw up a filing record. They shall, within ten days thereafter, transmit to the Central Patent Office, by registered mail, the applications and documents together with a copy of the filing record.

The filing record, signed by the person who filed the application or documents, and countersigned by the receiving officer, shall, *inter alia*, contain:

- (1) the date of filing;
- (2) the name and domicile of the applicant and his representative, if any;
- (3) the title of the invention, and a list of the documents attached in the case of an application for a patent of invention; the title of the model or design and a list of the documents submitted in the case of a utility model or industrial design; the data concerning the mark and the documents submitted in the case of a trademark.

If the patent application appears to be inadmissible in accordance with Section 3, below, the Office or department with which it was filed shall draw up a filing record after the application or documents have been put in order, unless the applicant requests that the record be drawn up forthwith. In this case the objections of the receiving offices and the counter-arguments of the applicant shall be included in the record, which shall be promptly sent to the Central Patent Office.

The designated offices or departments shall be entitled to raise objections to formal defects which do not affect the admissibility of the application or documents and to invite the applicant to make the necessary corrections, in which case the filing date shall remain unchanged. A record shall be drawn up of the corrections.

2. The applications, documents and acts referred to in Section 1, above, may also be sent directly to the Central Patent Office in Rome by registered mail, return receipt requested.

Upon receipt, the Central Patent Office shall draw up the filing record, the date of which shall be considered as the filing date.

* *Italian title*: Decreto del Presidente della Repubblica 30 giugno 1972, N. 540. Semplificazione dei procedimenti amministrativi in materia di brevetti per invenzioni industriali, modelli industriali e marchi di impresa.

Entry into force (of Decree No. 338): August 22, 1979.

Source: Communications from the Italian authorities and in English from Società Italiana Brevetti, Rome, Italy.

¹ In Italy, patents are issued not only for inventions, but also for the other forms of industrial property mentioned here (*Editor's note*).

² See this month's *Industrial Property Laws and Treaties*, ITALY-Text 2-001 (*Editor's note*).

In the case of patent applications, the Central Patent Office shall first examine whether or not they are admissible under Section 3 hereof.

The Central Patent Office shall follow the same procedure when it receives applications filed with offices other than those specified in Section 1, first paragraph, above, or applications for which no filing record has been drawn up.

3. Applications for patents shall not be admissible if they are not accompanied by:

- (1) for industrial inventions and utility models:
 - (a) at least one copy of the specification and of the drawings referred to in the specification;
 - (b) the document proving payment of the prescribed fees;
- (2) for industrial designs:
 - (a) the plates containing graphic or photographic reproductions of the design, showing its dimensions, or, in the case of three-dimensional designs which cannot be accurately reproduced, samples of the articles;
 - (b) the document proving payment of the prescribed fees;
- (3) for trademarks:
 - (a) at least one copy of the statement of protection;
 - (b) the document proving payment of the prescribed fees.

Inadmissibility shall be declared by the Central Patent Office in a decision from which an appeal may be taken to the Board of Appeals referred to in Section 71 of Royal Decree No. 1127 of June 29, 1939,² within 30 days from the notice of such decision.

Any fees paid shall be reimbursed *ex officio* when no appeal from the decision has been filed or when such an appeal has been rejected.

4. If the prescribed time limits for the filing of applications, acts, documents and for the payment of fees expires on a Saturday, Sunday or national holiday, or on a day on which all offices competent to receive documents or payments are not open for any reason, the time limit shall extend until the first day thereafter on which such offices are open.

The same extension shall be granted when the closure is due to a local holiday, or to events which concern individual offices, on condition that the receiving office be:

- (a) that of the applicant's residence or, if he resides in a foreign country, that of his representative in cases in which patent applications claiming priority are filed;
- (b) the office with which the application was filed, in case of procedures required pursuant to the filing of an application and of appeals.

The aforesaid time limits shall likewise be considered as met when the failure to meet them is due to an interruption in the postal services, also in foreign countries, unless special provisions of international conventions to which Italy is party establish a different system, provided that the envelope was posted by registered mail not later than five days prior to the deadline, except in cases in which the interruption was already in course at that time; and provided further that, if the envelope in question has not been addressed to the Central Patent Office, the filing or payment takes place within 30 days from the date of termination of the cause of the interruption.

The interested person shall specify and prove the cause which prevented him from meeting the prescribed time limit.

5. The offices or departments competent to receive applications in accordance with Section 1 shall adopt any measure required to ensure secrecy.

The filing records shall be numbered consecutively in the order in which the documents are received and shall be assembled in bound volumes.

Any interested person shall, upon request, be entitled to receive a copy of the filing record.

The Central Patent Office shall keep copies of the filing records in bound volumes, providing separate volumes for each receiving office, in which such copies shall be filed in numerical order; separate volumes shall be provided for industrial inventions, utility models and industrial designs and trademarks. The Central Patent Office shall enter on these copies a notation stating the outcome of the application.

The volumes referred to in the preceding paragraph shall for all purposes take the place of the patent application registers.

6. The Central Patent Office shall immediately make available to the Military Patent Section of the Ministry of Defense the patent applications for inventions, utility models and industrial designs received by it.

If, in the opinion of the said Section, the applications relate to inventions, models or designs useful to the national defense, any officer or employee, even if he does not belong to the Section, but expressly delegated by the Minister of Defense, may inspect at the premises of the Central Patent Office the specification and drawings attached to the applications.

All persons who have inspected applications and documents relating to patents, or by reason of their official duties had knowledge thereof, shall be bound to secrecy.

The Ministry of Defense may, within 90 days after the filing date of the patent applications, request the Central Patent Office to postpone the grant of the patent and any publication relating to the invention, utility model or industrial design. The Central Patent Office shall inform the applicant accordingly and warn him to comply with the obligation to secrecy.

If, within eight months from the filing date of the patent application, the competent Ministry has not given notice to the Central Patent Office and to the applicant, if he has given his domicile in the country, of its intention to proceed with expropriation in accordance with the provisions of Royal Decree No. 1127 of June 29, 1939, the ordinary procedure for the grant of the patent shall be followed.

However, the Ministry of Defense may request within the period fixed in the preceding paragraph that the grant of the patent and any publication relating to the invention, model or design be further postponed for a maximum period not exceeding three years from the filing date of the application. In such case, the inventor, or his successor in title, shall be entitled to a compensation to be fixed in accordance with Sections 63 and 64 of Royal Decree No. 1127 of June 29, 1939.

In the case of utility models and industrial designs, the period of postponement provided for in the preceding paragraph shall be four months and the further postponement provided for in the sixth paragraph may be requested for a maximum of one year from the filing date of the application.

The time limit provided for in Section 4 of Law No. 514 of July 1, 1959, shall be increased to 90 days.

All deadlines fixed in this Section shall be mandatory.

7. (omitted)³

8. (omitted)⁴

9. The applicant shall be given notice of any objections to which the examination of patent applications, or any petition connected therewith, may give rise, and shall be given a deadline within which to reply. Such deadline may, upon a reasoned request, be extended up to a maximum of six months from the date of notification of the objections.

³ This Section contains amendments to Royal Decree No. 1127 of June 29, 1939 (see note 2 above) (*Editor's note*).

⁴ *Ibid.*

If, at the end of the period fixed, no reply to the objections has been received, the patent application, or the petition, shall be rejected in a decision of which the applicant shall be notified by registered letter, return receipt requested. However, if the objection concerns the claim of a priority right, failure to reply thereto shall merely entail the loss of the said right.

10. If the application is accepted, the Central Patent Office shall proceed with the grant of the patent.

Patents shall be drawn up in one original and two true copies and shall be numbered consecutively according to their dates of grant and according to whether they relate to industrial inventions, utility models, industrial designs or trademarks.

One of the copies of the patent shall be delivered to the applicant; the other shall be kept in the file of the corresponding application.

The originals shall be kept in separate collections, relating respectively to inventions, utility models, industrial designs and trademarks.

Each day, the Central Patent Office shall make a collection of the original patents using a system of provisional bindings. A collection shall become definitive when it contains a maximum of 500 patents.

The collections of the originals shall for all purposes replace the registers of patents.

Pending the issue of the implementing regulations referred to in Section 13, the particulars which must appear in patents shall be those provided for in Sections 31 and 32 of Royal Decree No. 244 of February 5, 1940, in the case of patents for inventions, Section 33 of Royal Decree No. 1354 of October 31, 1941, in the case of utility models and industrial designs, and Sections 35 and 38 of Decree of the President of the Republic No. 795 of May 8, 1948, in the case of trademarks.

11. Any means of graphic reproduction may be used to print the specifications and drawings of patents for inventions, as provided for in the second paragraph of Section 38 of Royal Decree No. 1127 of June 29, 1939.

12. The Central Patent Office shall keep all files of acts and documents relating to patent applications for inventions, utility models and industrial designs for a period of ten years from the date of expiration of the patent rights.

After the expiration of this term, the Central Patent Office may destroy the files, even without prior consultation of the State Central Archives, after microfilming the original patent applications, the specifications, and the drawings attached thereto.

13. The implementing regulations shall be issued by decree of the Minister for Industry, Commerce and Handicrafts within six months following the entry into force of this Decree.⁵

14. The following provisions are repealed:

(a) Sections 27(3), 34, 37(1), 40 (as amended by Law No. 514 of July 1, 1959), 90 and 92 (as amended by Law No. 1356 of October 19, 1956) of Royal Decree No. 1127 of June 29, 1939;

(b) Sections 2, 21, 22, 23, 24, 29, 30, 31, 45, 46, 47 and 59(3) of the regulations approved by Royal Decree No. 244 of February 5, 1940;

(c) Section 10(2)(b) of Royal Decree No. 1411 of August 25, 1940;

(d) Sections 2, 24, 25, 26, 27, 31, 32, 43, 44, 45 and 57(3) of the regulations approved by Royal Decree No. 1351 of October 31, 1941;

(e) Sections 25(3), 32, 34(1), 73 and 75 of Royal Decree No. 929 of June 21, 1942;

⁵ See this month's *Industrial Property Laws and Treaties*, ITALY-Text 1-005.

(f) Sections 2, 25, 26, 27, 28, 33, 34 and 44(3) of the regulations approved by Decree of the President of the Republic No. 795 of May 8, 1948.

Any other provisions contrary to or incompatible with those of this Decree are also repealed.
