

**Regulation of the Prime Minister**  
of 17 September 2001  
**on filing and processing of patent and utility model applications**  
(as amended on 14 June 2005)

By virtue of Article 93 and Article 101(2) of the act of 30 June 2000 – Industrial Property Law (Journal of Laws of 2003 No 119, text 1117, 2004 No 33, text 286 and 2005 No 10, text 68) the following is decreed:

**Chapter 1**  
**General provisions**

1. This Regulation regulates:

- (i) the detailed requirements for filing patent and utility model applications;
- (ii) the detailed extent and procedure of processing and examining applications by the Patent Office
- (iii) the manner and form in which patent or utility model application is published and an extent to which the Patent Office is authorised to make corrections in the abstract;
- (iv) a form in which the report on the state of the art is to be established, as well as the manner and term of its making available to third parties.

2. References in this Regulation to:

- (i) “the Law” mean the act of 30 June 2000 – Industrial Property Law, and the articles referred to and not accompanied by other further indications mean the articles in that Law;
- (ii) “Patent Office” mean the Patent Office of the Republic of Poland;
- (iii) “applicant” mean the person who is, on its own behalf, filing the patent or utility model application with the Patent Office;
- (iv) “national application” mean an application for the protection of an invention or a utility model filed with the Patent Office under the Law;
- (v) “application of addition” mean a patent application containing an application for a patent of addition;
- (vi) “international patent classification” mean the classification established in the updated edition of the Strasbourg Agreement of 24 March 1971 Concerning the International Patent Classification (*Wiadomości Urzędu Patentowego, 1997 No 5*);
- (vii) “Treaty” mean the Patent Cooperation Treaty signed on 19 June 1970 in Washington (Journal of Laws of 1991 No 70, text 303 and of 1994 No 73, text 330);
- (viii) “Regulations” mean the Regulations under the Treaty (*Wiadomości Urzędu Patentowego, 1993 No 8*);
- (ix) “international application” mean a patent or utility model application filed under the Treaty;
- (x) “receiving office” mean the Patent Office acting as an authority with which international applications may be filed under the Treaty;
- (xi) “designated office” mean the Patent Office acting as the State authority designated by an applicant in accordance with Chapter I of the Treaty;

- (xii) “elected office” mean the Patent Office acting as the State authority elected by an applicant in accordance with Chapter II of the Treaty;
- (xiii) “International Bureau” mean the International Bureau of the World Intellectual Property Organization;
- (xiv) “International Search Authority” mean the Authority referred to in Article 16 of the Treaty;
- (xv) “transmittal fee” mean the fee charged by a receiving office for an international application;
- (xvi) “national fee” mean the fee charged by a designated office or an elected office for an international application.

**3.** In cases not regulated by the provisions of the Treaty or the Regulations, or the provisions of sections 41-46 of this Regulation, the provisions of this Regulation governing national applications shall apply accordingly to international applications.

## **Chapter 2**

### **Filing of patent applications**

**4.-(1)** In addition to the elements mentioned in Article 31(1) of the Law, a patent application shall include, in particular, the following:

- (i) where the applicant claims a right of an earlier priority – the priority document;
- (ii) the attestation referred to in Article 93<sup>6</sup> (1);
- (iii) where the priority document states a person other than the applicant – an applicant’s statement of the grounds on which his right for claiming the priority is based;
- (iv) where the applicant acts through the intermediary of a representative – a power of attorney.

(2) The priority document shall be accompanied by the documents referred to in paragraph (1) (ii) and (iii).

**5.-(1)** A request in a patent application shall contain at least the following:

- (i) the surname and first name or the name of the applicant together with his address or seat, as well as the Tax Identification Number (TIN) and the PESEL number or the REGON identification number, insofar as the applicant has been accorded such numbers;
- (ii) where the applicant acts through the intermediary of a representative – the surname and first name of the representative together with his address;
- (iii) a petition for the grant of a patent or of a patent of addition, together, in case of the latter, with an indication of the number of the parent patent or of the patent application for the grant of the parent patent;
- (iv) the title of the invention;
- (v) the surname and first name of the inventor together with his address;
- (vi) where the applicant and the inventor are not one and the same person – a statement of the grounds on which the applicant’s right to a patent is based;
- (vii) the signature of the applicant or, where the applicant acts through the intermediary of a representative – the signature of his representative.

- (2) The request referred to in paragraph (1) may also contain the following:
- (i) where the applicant desires to take advantage of the priority of a previous application – a declaration of priority with the indication of at least the date at, and the country in, which the previous application was filed or the name, location and country of the exhibition and the date or dates at which the invention remained displayed at the exhibition in question;
  - (ii) where there are two or more applicants and they do not have a common representative appointed – an indication of the person authorised to be delivered communications;
  - (iii) a list of the documents annexed.

**6.-(1)** A description of the invention, hereinafter referred to as “the description”, shall, in the order as indicated below,:

- (i) state the title of the invention, which should formulate in a clear manner the subject-matter of the invention in respect of the technical features of the technical solution presented in the description and the patent claims; it may not include fancy names or personal names nor expressions that expressly invoke the advantages or new features of the invention;
- (ii) specify the technical field to which the invention relates;
- (iii) indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding of the invention, in particular of its novelty and inventive step, and for carrying out searches in the state of the art relevant for the invention and examination of the invention applied for; it is preferable for that part of the description to also cite the bibliographic data of the publications reflecting the state of the art; the state of the art is allowed to be presented in drawings placed on separate sheets with the making a note of their relation to the state of the art;
- (iv) disclose the invention, as claimed, in such terms that both its nature and the whole solution can be understood to an extent enabling carrying out the invention; where the biotechnological invention can not be sufficiently disclosed in the description, a reference to the deposited biological material is to be added with the indication of at least the name and the address of the depositary institution with which the deposit was made and the accession number given to the deposit by that institution, or with the indication that the microorganism is accessible to the public;
- (v) state the advantageous effects, if any, of the invention with the reference to the background art;
- (vi) describe the figures in the drawings, if any;
- (vii) describe in detail at least one way of carrying out the invention with the reference to the drawings, if any;
- (viii) indicate, when it is not obvious from the other parts of the description or from the nature of the invention, the way in which the invention is capable of exploitation.

(1a) The form and arrangement of the description, as specified in paragraph (1) can be changed, if it contributes to a better understanding of the invention and its presentation in a more concise manner.

(2) The description may not contain expressions contrary to public order or morality, or statements on alleged merits or value obviously lacking in the invention, nor contain fancy names or personal names.

(3) The provisions of paragraphs (1), (1a) and (2) shall apply accordingly to the description in an application for the patent referred to in Article 30 of the Law, hereinafter

referred to as “the application of addition”, however, the part of the description specified in paragraph (1)(iii) should present the invention being the subject matter of the parent patent and indicate the number of the parent patent (or the number of the application).

**7.-**(1) The patent claims referred to in Article 31(1)(iii) of the Law shall not state features, which the invention does not possess. Neither they shall contain expressions of the kind that evaluate the invention or its individual features. The provision of section 6(2) shall apply accordingly.

(2) The patent claim shall not contain those features, which are not presented in the description.

(3) If, in consideration of the complexity of the invention, the applicant has drawn up two or more claims, the claims shall be numbered consecutively in Arabic numerals.

**8.-**(1) The independent claim referred to in Article 33(4) of the Law shall contain:

- (i) a statement (a non-characterising portion) beginning with the title defining the subject matter of the invention claimed in a given claim and indicating the technical features necessary for the definition of the claimed subject matter of the invention, the technical features being as a whole taken as the state of the art;
- (ii) a characterising portion preceded by the words “characterized in that,” stating concisely the technical features (characterising features) of the invention claimed, which are to distinguish it from among other technical solutions possessing the combination of technical features indicated in the non-characterising portion; in case of a chemical compound it shall present a structure of the compound, including with the indication of its equivalents.

(2) The provisions of paragraph (1) shall apply accordingly to an independent claim in an application of addition. The non-characterising portion of the independent claim shall state:

- (i) the combination of the technical features being the combination of the technical features of the invention protected by the parent patent;
- (ii) the number of the parent patent preceded by the words “according to the patent No...” or the number of the application, respectively, if a patent has yet not been granted.

(3) The dependent claim, referred to in Article 33(4) of the Law, shall contain successively:

- (i) a short definition of the claimed subject matter, being the abridged title of the invention or an abridged relevant part of the title of the invention;
- (ii) a claim or claims to which it refers; in the reference the number or numbers of the claims referred to should be indicated;
- (iii) a characterising portion preceded by the words “characterized in that,”, stating the technical features additionally claimed in a given dependent claim.

(4) The claim referred to in paragraph (3) may refer to two or more other claims. In that case patent claims shall be grouped in a way clearly showing their interdependence and the subject matter of the invention protected by those claims. A patent claim shall not refer to more than one independent claim.

(5) Reference of any claim to another claim shall be made where a dependent claim includes, in addition to its own technical features, all the limitations of the claimed subject matter contained in the claim to which it refers.

(6) Reference of any claim to more than one other claim shall be made where a dependent claim includes, in addition to its own technical features, all the limitations of the claimed subject matter contained in the particular claim to which it refers and in relation to which it is considered.

(7) Claims shall not rely on references to the description or drawings. In particular, they shall not rely on such references as: “as described in part...of the description” or “as illustrated in figure...of the drawings”.

(7a) The provision of paragraph (7) shall not apply where the reference to the description or a drawing is necessary for the definition of the claimed invention and of the scope of the patent protection sought.

(8) If the application contains drawings, the technical features mentioned in the claims shall preferably be followed by reference signs referring to individual parts of the drawing relating to these features. When used, the reference signs shall preferably be placed between parentheses. If inclusion of reference signs in claims does not particularly facilitate quicker understanding of a claim, it should not be made.

(9) *(repealed)*

**9.** Where due to the nature of the invention it is difficult to draft patent claims in accordance with the provisions of section 8(1)-(3):

- (i) the content of a patent claim may be limited to the presentation of the technical features of the claimed invention, that distinguish the invention from other technical solutions comprised by the state of the art within the meaning of Article 25(2) and (3) of the Law,
- (ii) where an application concerns a chemical compound the content of a claim may be limited to the presentation of the structure of a chemical compound or, in case of a microbiological invention – of a sequence listing of one or more nucleotide and/or amino acid, or to the reference to a deposited biological material, with the indication of the depositary institution with which the deposit was made and the accession number given to the deposit by that institution.

**10.**-(1) The drawings referred to in Article 31(2) of the Law shall present the subject matter of the invention in as many profiles as, in consideration of its complexity, is necessary for the understanding of the invention taken in combination with the description and the claims. Individual figures in the drawings may comprise cross-sections and particular parts of the subject matter of the invention.

(2) Where the invention may, due to its nature, be illustrated by means of drawings which, however, are not necessary for the understanding of the invention, the applicant may include the drawings in the application.

(3) Subject to the provisions of section 11(1)(ii), (2) and (4), structural chemical formulae, if presented on separate sheets, shall be deemed to be drawings. References in the

subsequent provisions to figures also mean individual structural chemical formulae marked as a formula.

(4) The provision of section 6(2) shall apply accordingly.

**11.**-(1) The abstract of the description, mentioned in Article 31(1)(iv) of the Law, hereinafter referred to as “the abstract”, shall also consist of the following:

- (i) where the applicant refers to the deposit of the biological material for the purpose of sufficient disclosure of the invention – the indication of the depositary institution with which the deposit was made and the accession number given to the deposit by that institution;
- (ii) where necessary because of the subject matter of the invention – the chemical formula which, among all the formulae contained in the application, best characterises the invention; where justified, the abstract may contain more than one structural formula; structural formulae can be drawn on a separate sheet annexed to the abstract.

(2) The abstract shall give the number of that figure of the drawing, which, among all the figures contained in the application, best illustrates the invention. Where justified, more than one figure of the drawing may be indicated.

(3) The abstract shall be concise and occupy no more than one-third of an A4-size sheet. The abstract shall not contain statements on the alleged merits or value of the claimed invention or information on its speculative application in a particular place, time or by particular persons. The provision of section 6(2) shall apply accordingly.

(4) Each of the main technical features of the invention, mentioned in the abstract and illustrated by an indicated figure of the drawing shall be followed by signs referring to that figure, the signs being placed between parentheses.

(5) The Patent Office shall be authorised to make corrections in the abstract in order to adapt it to the requirements prescribed in paragraphs (1)-(4) or remove obvious mistakes or grammatical errors, provided that this does not require substantial modifications to be made in the content of the abstract. For the purpose of publication of the patent application the title of the invention may also be modified to the extent as provided for in section 6(1)(i).

**12.** The terminology and the signs shall be consistent throughout the application and in accordance with the existing provisions and adopted practice.

**13.**-(1) The description, the claims and the drawings shall be filed in three copies, the abstract in two copies and the other parts of the application in one copy only.

(2) The description and the claims shall be signed by the applicant or his representative.

**14.** The detailed requirements for the patent application are specified in Annexes 1 and 2 to this Regulation.

**15.**-(1) Where the applicant chooses to include two or more inventions in one single application, the application is permitted to include in particular:

- (i) in addition to an independent claim for a product, an independent claim for a process specially adapted for the manufacture of the product, and an independent claim for an

- apparatus or another technical means specifically designed for carrying out the process, or
- (ii) in addition to an independent claim for a process, an independent claim for an apparatus or another technical means specifically designed for carrying out the process, or
  - (iii) in addition to an independent claim for a product, an independent claim for a process specifically adapted to the manufacture of the product and an independent claim for a use of the product.
- (2) Subject to the provision of paragraph (1), the application shall be permitted to contain:
- (i) two or more independent claims within the same category of inventions (product, process or apparatus), where it is not possible or appropriate to cover them by a single claim;
  - (ii) a reasonable number of dependent claims claiming particular embodiments of the invention claimed in an independent claim.

### **Chapter 3**

#### **Filing of utility model applications**

**16.-**(1) The provisions of sections 4-8, 9(i), 10-14 and 15(2)(ii) shall apply accordingly to the filing of utility model applications.

(2) A utility model application may contain one single independent claim only.

(3) For the purpose of the detailed presentation of the technical features specified in an independent claim and the presentation of the features of various embodiments of the subject matter or of its elements, the application referred to in paragraph (1) may contain dependent claims.

(4) When necessary, the drawings of a utility model, referred to in Article 97(2) of the Law, shall present, as figure No 1, an overall picture of the subject matter of the application..

(5) *(repealed)*

(6) *(repealed)*

### **Chapter 4**

#### **Processing of patent and utility model applications**

**17.-**(1) After having received an application and where the application contains at least the documents referred to in Article 31(3) of the Law, the Patent Office shall immediately proceed to perform the acts, referred to in Article 41(1) of the Law.

(2) In case of an application received by means of fax, the Patent Office shall, after having received the original copy of the application, accord the date of filing and check its identity with the copy received by fax.

(3) Where the Patent Office finds that the original copy of the application has been received 30 days after the date of fax transmission or it is not identical with the fax copy, or due to the illegibility of the latter it is impossible to determine the information concerning the

disclosure of the invention and the scope of the protection sought, the date of receipt of the original copy shall be considered the actual filing date, which fact shall be confirmed by way of order.

**18.**-(1) Where the Patent Office finds that the request does not contain the statement of the grounds on which a right to a patent is based, as required by Article 32 of the Law, it shall notify the applicant accordingly and invite him to remedy that omission within a fixed time limit.

(2) If the applicant fails to comply with the invitation of the Patent Office within the fixed time limit, the application shall be deemed to be withdrawn and the proceedings shall discontinue.

**19.**-(1) Where the Patent Office finds that an application fee has not been paid, it shall invite the applicant to make the payment within a month. Within that period the applicant may request to be exempted from a part of the fee.

(2) Failure to make the payment and submitting the request for exemption shall result in that the application shall be deemed to be withdrawn and the proceedings shall discontinue.

**20.**-(1) Where the Patent Office finds that the abstract is missing, it shall invite the applicant to remedy this omission within a fixed time limit, Failure to furnish the abstract within the fixed time limit shall result in that the application shall be deemed to be withdrawn and the proceedings shall discontinue.

(2) Where the Patent Office finds that before the publication of the application the subject matter for which protection is sought has been limited in its scope, it shall invite the applicant to modify the abstract within a fixed time limit. Modification may be made by the Patent Office itself, if it is not necessary for the whole text to be redrafted.

**21.** *(repealed)*

**22.** When justified, the Patent Office may invite the applicant to furnish, within a fixed time limit, evidences and explanations concerning the application, in particular those in support of his entitlement to enjoy a right to a patent, to a patent of addition or a right of earlier priority.

**23.**-(1) The Patent Office shall publish in the official bulletin "*Biuletyn Urzędu Patentowego*", pursuant to Article 43 of the Law, the following particulars of a patent application filed:

- (i) at least one symbol of the international patent classification;
- (ii) the number of the patent application;
- (iii) the date of filing;
- (iv) the date and the country of an earlier priority and the number of the application or the indication of the exhibition;
- (v) the surname and first name or the name of the applicant;
- (vi) the place of residence or the seat and the country of the applicant;
- (vii) the surname and first name of the inventor;
- (viii) the title of the invention;
- (ix) the abstract and a figure of the drawing, if necessary;
- (x) the number of the patent claims;
- (xi) the dates of the changes made in the patent claims, if any.



(2) The date of publication of the particulars of a patent application shall be deemed to be the date, in which the indications mentioned in paragraph (1) have been published in the “*Biuletyn Urzędu Patentowego*”.

(3) The Patent Office may choose to publish a patent claim instead of the abstract referred to in paragraph (1)(ix), if it considers the invention to be better presented in the claim.

**24.**-(1) The particulars of a patent application shall not be published, if:

- (i) prior to the publication the proceeding has been discontinued by the Patent Office;
- (ii) the Patent Office has refused to grant a patent and a decision to that effect has become final;
- (iii) the proceeding is to be discontinued at an applicant’s explicit notice of withdrawal of his application, furnished at least two weeks before the date of publication but not later than before the termination of the technical preparations for publication.

(2) In case of such decision of the Patent Office being appealed against, the Patent Office shall proceed pursuant to Article 43(3) of the Law.

**25.** Before the issuance of an order referred to in Article 48 of the Law, the Patent Office shall inform the applicant on the reasons against the grant of the right of priority and fix a time limit for submitting explanations or removing the defects found.

**26.**-(1) In case of an invitation to file the divisional application referred to in Article 39 of the Law, the fee paid when filing the invention shall be deemed to be a fee for filing the invention presented in the first from among the claims maintained by the applicant and such divisional application shall preserve the number accorded to the original application. The other applications shall be accorded subsequent numbers corresponding to the date of their receipt with the original filing date being preserved. The applicant shall be obliged to pay the fees for the divisional applications.

(2) Where the original application has already been published by the Patent Office pursuant to Article 43 of the Law, the subsequently filed divisional applications referred to in paragraph (1) shall not be subject to another publication.

(3) Where the applicant has failed to file, within the fixed time limit, divisional patent applications or to pay the fees due for them, the application shall be deemed by the Patent Office to be withdrawn and the proceeding in respect of this part shall discontinue.

(4) In the case referred to in paragraph (3) the Patent Office shall invite the applicant to modify the documentation in consequence of the withdrawal of some of the inventions. To the extent as the applicant himself has failed to do that and if the entire text does not require to be significantly redrafted, also the Patent Office may make such modification.

(5) The provisions of paragraphs (1) and (2) shall apply accordingly if the applicant, without being invited by the Patent Office to do so, filed divisional applications of the inventions contained in the original application.

**27.** On pain of discontinuance of the proceeding the Patent Office may:

- (i) invite the applicant to furnish explanations concerning the content of the description, the claims or the drawings, as well as to make certain corrections or additions in the description of the invention, in the claims or in the drawings, if it is necessary for the understanding by an expert of the invention and of the scope of the protection sought;
- (ii) request the applicant to submit the drawings within a fixed time limit.

**28.**-(1) The Patent Office may recommend as advisable to present the models or samples, if it substantially facilitate the understanding of the invention and provided that it makes no significant difficulty to the applicant.

(2) Where the applicant fails to furnish models or samples within the fixed time limit, the Patent Office shall take a decision on the grant of a patent basing on the documentation received.

(3) The size of models or samples shall not exceed 50 cm x 50 cm x 50 cm. The models and samples shall be made in a durable manner.

(4) After having been inspected, the models and samples shall be destroyed, unless the applicant, when furnishing them, notifies that he wants them back.

**29.**-(1) After the search report has been drawn up, the Patent Office shall immediately communicate it to the applicant. The report shall be drawn up on the basis of the patent literature available in the Patent Office's collections in the languages: English, French and German, and Polish patent applications and granted patents, as well as any other document which might be taken into consideration by an examiner. In case of equivalents, an examiner may cite one document in a language best known to him.

(2) The search report, referred to in Article 47(1) of the Law, shall contain:

- (i) the symbol of the category according to the international patent classification, to which the subject matter of the patent application has been classified and the coverage of the search carried out according to the classification mentioned above;
- (ii) the documents available to the Patent Office at the time of drafting the search report, which can be taken into consideration while assessing, whether the criteria for the grant of a patent for the subject matter of the application have been satisfied;
- (iii) the reference of the conclusions drawn from the documents referred to in subparagraph (ii), to the patent claims, to which the documents refer, with the indication, when necessary, of the relevant parts of the documents;
- (iv) the marking of the cited documents, with the use, in particular, of the following symbols:
  - (a) X – for documents which challenge the novelty of the invention;
  - (b) Y – for documents which challenge the inventive step of the invention;
  - (c) A – for documents which are part of the background art and do not challenge novelty or inventive step;
  - (d) E – for documents which challenge the novelty of the invention, but published after the filing date of the technical solution.

(3) *(repealed)*

(4) The search report shall be sealed and signed by the person responsible for its drawing up.

(5) After the publication of the application the report referred to in paragraph (1) may be made available to third parties. The report shall be available in the library of the Patent Office at a reasonable request of an interested party, on days and time when the Patent Office is open to the public.

(6) The President of the Patent Office may order the publication of the search reports, which have already been made available after the publication of the application.

**30.** –(1) Where in the course of processing the application or, in particular, in consequence of filing the divisional applications referred to in section 26 the applicant makes additions or modifications that go beyond the disclosed in the description subject matter of the technical solution as filed, the Patent Office shall decide on their inadmissibility and invite the applicant to make relevant corrections.

(2) The provision of paragraph (1) shall apply accordingly, where the applicant has, after the publication of the particulars of the application, made alterations in the patent claims which broaden the scope of the protection sought before the publication.

**31.** In the course of examination any documents shall, in particular, be taken into consideration that were cited in the search report, as well as any other document found relevant to the invention.

**32.**-(1) In the course of examination the Patent Office shall:

- (i) refuse to recognise the subject matter of the application as an invention, in particular where the Office reveals that it does not concern any tangible creation susceptible of application, determined by means of technical features relating to its structure or composition, nor any particular technical way in which it affects a material, nor new use of a substance comprised in the state of the art;
- (ii) refuse to recognise the subject matter of the application as a new invention, where it may prove that all the technical features of the technical solution or of a variation of the technical solution contained in the application, taken together, are comprised in the state of the art and are not characterised by the production of unexpected effects;
- (iii) recognise the claimed invention that meets the criterion of novelty as a technical solution not involving an inventive step, where the Office may cite those documents from the state of the art, on the basis of which it may reasonably claim that the invention's capability of being carried out or applied is clearly implied by that state of the art, when taking into account average skills of a person skilled in the art;
- (iv) refuse to recognise the subject matter of the application as a technical solution susceptible of industrial application, in particular when it finds that it is infeasible for that solution to be used for manufacturing of the product or for the claimed process to be used in a technical sense.

(2) The Patent Office shall make the decision referred to in Article 49 of the Law in the cases specified in paragraph (1), and where it finds that:

- (i) according to Article 29 of the Law the invention claimed is excluded from protection;
- (ii) in the invention as presented not all substantial information necessary for it to be carried out has been disclosed sufficiently enough or in the patent claims the applicant

has failed to define the scope of protection sought by way of indicating at least one technical feature relating to the subject matter of the application and referred to in Article 33(3) of the Law,

(iii) a person applying for a patent does not have a right to a patent.

(3) Before making the decision referred to in paragraph (2) the Patent Office shall fix a time limit within which the applicant may file his comments as to the evidence material showing the lack of statutory requirements for the grant of a patent.

(4) The provision of paragraph (3) shall apply accordingly where the lack of statutory requirements for the grant of a patent has been found only in respect of a part of the application.

(5) Where the applicant agrees with all or some of the findings presented pursuant to paragraph (2), he shall have a right to make, within the fixed time limit, additions or modifications in the application, which he deems appropriate to eliminate the obstacles for the grant of a patent. When making the additions or modifications, the applicant may indicate that part of the description, in which the added or modified matter has been disclosed in the filing date.

(6) Lack of reaction from the part of the applicant within the fixed time limit provided for in paragraph (3) shall not release the Patent Office from its obligation to reconsider the reasons for making a decision on the refusal to grant a patent.

**33.**-(1) Before making a decision on the grant of a patent the Patent Office may:

- (i) by way of order, request the applicant to make, on pain of discontinuance of the proceeding, certain modifications or additions in the documents making up the application to the extent as necessary for the proper presentation of the invention and for the elimination from the description, the claims and the drawings of the elements contrary to public order or morality, or those which indicate alleged merits or value obviously lacking in the invention, or contain fancy names or personal names;
- (ii) correct, by itself, the description, the claims or the drawings, however only in order to eliminate minor formal defects and other obvious mistakes or language errors, as well as in the cases referred to in paragraph (2).

(2) The modifications and additions referred to in paragraph (1)(i), may also include the elimination from the description of the claims and drawings of those elements and information which are not relevant to the patentable invention; the modifications and additions may likewise include regular corrections in the title and the definition of the subject matter of the invention.

(3) *(repealed)*

**34.**-(1) Subject to paragraphs (2)-(4), the provisions of sections 17-31, 32(1)(i) and (ii) and (2)-(6), 33, 35 and 36 shall apply accordingly to the processing of utility model applications.

(2) The Patent Office shall make a decision on refusal to grant a right of protection also where it has been found that the utility model as claimed in the application fails to make possible producing feasible results useful in manufacturing or exploitation of the products.

(3) A utility model application shall be checked as to whether the application has, in addition to the elements mentioned in section 17, contained in the filing date a drawing or drawings relating to the subject matter of the utility model.

(4) Where in the course of examination the Patent Office finds that the drawing contained in the application does not illustrate the technical solution, the provision of section 32(2)(ii) shall apply accordingly.

(5) *(repealed)*

**35.**-(1) Any communications shall be sent by the Patent Office to the address indicated by the applicant.

(2) Where the applicant has appointed a representative, the Patent Office shall send communications to the representative's address.

(3) At an applicant's or his representative's request and subject to payment of a relevant fee, communications shall be delivered by the Patent Office also to the address as indicated by them.

**36.**-(1) In the course of processing patent or utility mode applications the Patent Office may, at an applicant's request, issue the priority document mentioned in Article 19 of the Law.

(2) The priority document referred to in paragraph (1) shall consist of:

- (i) a certificate issued by the Patent Office containing the first name and surname or the name of the applicant, the title of the invention where he is mentioned as such in the application, the date and number of the application; and
- (ii) the copies of the documents listed in Article 31 of the Law annexed by the applicant to the request in the application enabling the date of filing the application to be established. The Patent Office shall certify the copies as true copies and annotate a change in the person of the applicant if such change effected before the issue of the priority document.

(3) The Patent Office shall annotate on the certificate referred to in paragraph (2)(i) the date of priority claimed by the applicant in case of his invention having been earlier displayed at an exhibition.

(4) The certificate shall be sealed and signed by an officer authorised in writing to do so by the President of the Patent Office.

**37.** After having checked that a due maintenance fee has been paid in due time the Patent Office shall enter in the register the information on the grant of the patent and publish the patent specification, as well as issue the letters patent to the applicant.

**38.**-(1) In addition to the elements mentioned in Article 54 of the Law the letters patent shall include a certificate on the grant of a patent with the mention of the right holder, the number of the patent and the title of the invention.

(2) The letters patent referred to in paragraph (1) shall be sealed and signed by an officer authorised in writing to do so by the President of the Patent Office.

**39.** Announcement of the grant of a patent to be published in the official gazette “*Wiadomości Urzędu Patentowego*” shall include in particular the following:

- (i) the number of the patent;
- (ii) the date of filing and the application number;
- (iii) the date of publication of the application;
- (iv) a symbol of the international patent classification;
- (v) the title of the invention;
- (vi) the surname and first name or the name of the right holder;
- (vii) the surname and first name of the applicant.

**40.**-(1) Subject to paragraph (2), the provisions of sections 37-39 shall apply accordingly to rights of protection for utility models.

(2) Utility model specifications shall not be published. The specifications shall be made available on request to third parties against payment in a form of printed copies, as well as in the Patent Office's library.

## **Chapter 5**

### **Processing of international applications**

**41.**-(1) International applications filed with the receiving Office shall be in one of the following languages: English, French or German.

(2) All the papers purporting to be an international application shall be filed in three copies.

(3) The request of the international application shall be furnished on the form prepared by the International Bureau.

**42.**-(1) The international applications referred to in section 41 shall be subject to payment of the transmittal fee and the international fee provided for in the Regulations.

(2) The transmittal fee referred to in paragraph (1) shall be paid in advance. The fee may also be paid within a period of one month from the date at which the Patent Office's invitation for making the payment has been served upon.

**43.**-(1) The Patent Office shall publish in the “*Biuletyn Urzędu Patentowego*” a notice of the publication by the International Bureau of the international application in which the applicant seeks protection in Poland.

(2) The Patent Office shall start to process the international application in its capacity as the designated Office or the elected Office after having received, within the time limits prescribed in the Treaty, a request for starting the processing, a copy of the international application, unless the copy has been provided by the International Bureau, as well as its translation into the Polish language and the payment of the national fee.

(3) The translation mentioned in paragraph (2) may, except for the abstract, be submitted at the latest within a period of three months from the date of the submission of the request.

(4) The national fee shall be paid in advance at the time of the submission of the petition. The fee may also be paid within one month from the date when an invitation from the Patent Office to pay the fee has been served upon.

(5) The translation of an international application, mentioned in paragraph (2) shall contain:

- (i) *(repealed)*
- (ii) the description of the invention or the utility model;
- (iii) the patent claims or the claims for the utility model protection;
- (iv) the text in the drawings and listings of nucleotide and amino acid sequences;
- (v) the abstract of the description of the invention or the utility model.

(6) The translation of the claims referred to in paragraph (5)(iii) shall contain the translation of the claims as filed and of the claims as amended under Article 19 of the Treaty, as well as the translation of any statement filed under Article 19 of the Treaty.

(7) The provision of paragraph (6) shall apply accordingly, where the elements of the international application mentioned in paragraph (5) have been amended under Article 34(2) of the Treaty.

(8) The translation of the international application shall be filed in three copies.

(8a) The provision of section 5 shall apply accordingly to the request referred to paragraph (2).

(9) Subject to paragraph (10), the translation of the international application shall be accompanied by the documents mentioned in section 4(1)(i)-(iv).

(10) A priority document shall not be required to be furnished in case where it concerns an earlier application filed with the Patent Office or where the document already furnished by the International Bureau to the Patent Office according to the Regulations has been filed in one of the languages referred to in paragraph (13).

(11) The documents mentioned in paragraph (9) shall be filed in one copy each.

(12) Where the documents mentioned in paragraph (9) have been filed in a language other than Polish, they shall, subject to paragraph (13), be accompanied by the translation into the Polish language signed by the translator.

(13) The provision of paragraph (12) shall not apply to the document mentioned in section 4(1)(i), where that document has been filed in English, French, German or Russian, or has been accompanied by the translation into one of these languages.

(14) Where in the course of the proceeding referred to in paragraph (2) the Patent Office finds that among the documents filed or transmitted by the International Bureau a copy of the international application or the documents mentioned in paragraph (9) are missing, the Office shall invite the party concerned to furnish them within a fixed time limit.

**44.** In the course of the proceeding referred to in section 43(2) the Patent Office shall accept the transmission, by means of fax, of any communications referring to the international application, provided that within 30 days of the fax transmission the original copies of the documents so transmitted accompanied by a cover letter indicating the fact of the earlier transmission are furnished.

**45.**-(1) The international application in respect of which a granting proceeding has been initiated by the Patent Office as the designated office or the elected office shall be accorded a subsequent number of the national application.

(2) The Patent Office shall announce in the "*Biuletyn Urzędu Patentowego*" about the international applications in respect of which proceedings have been initiated before the Patent Office as the designated office or the elected office.

**46.**-(1) Where in the international application the international search report is missing in respect of some of the parts of the application that have been recognised by the International Search Authority as not complying with the requirement of unity of invention, the mentioned parts of the international application shall, to the extent as recognised by the Patent Office as non-compliant with the requirement of unity, be deemed withdrawn and the proceeding shall be discontinued in the respective part.

(2) The provision of paragraph (1) shall not apply in case of divisional applications being filed by the applicant at the invitation of the Patent Office and the fees being paid as provided for applications filed directly with the Patent Office.

## **Chapter 6** **The final provision**

**47.** This regulation shall enter into force 14 days from the date of publication.

### **Annex 1**

#### FORMAL REQUIREMENTS CONCRENING PATENT AND UTILITY MODELS APPLICATIONS

1. All the documents making up the application (description, claims, drawings and abstract) shall be so presented as to make all the details fully legible after their reproduction with the linear diminishing up to two-third.
2. Each sheet shall be free from creases, cracks and folds, erasures, alterations, overwritings and interlineations. Non-compliance with this rule may be authorised if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.
3. Only one side of each sheet shall be used.
4. Each sheet shall be used in an upright position, i.e. the short sides at the top and bottom.



5. All elements of the application shall be on paper which shall be flexible, strong, white, smooth, non-shiny and durable..
6. Each element of the application shall commence on a new sheet.
7. If an element of the application consists of two or more sheets, all the sheets shall be so connected that they can be easily turned when consulted.
8. The size of the sheets shall be A4 (29.7 cm x 21 cm).
9. The minimum margins of the sheets containing the request, the description, the claims and the abstract, shall be as follows:
  - Top, right side and bottom margins – 20 mm
  - left side margin– 25 mm, however it is recommended that top and left side margins be of 40 mm, and right side and bottom margins – of 30 mm.
10. The minimum margins of the sheets containing drawings shall be as follows:
  - top – 2,5 cm
  - left side – 3,5 cm
  - right side – 1,5 cm
  - bottom – 1 cm.
11. The sheets shall not contain frames or single lines around the usable or used surface.
12. The margins must be blank.
13. All the sheets of the application, except for the request, shall be numbered in consecutive Arabic numerals and the numbers shall be centred at the top of the sheet below the top margin.
14. It is recommended to number every fifth line of each sheet of the description, the numbers (5, 10, 15, etc.) appearing on the left side of the sheet, to the right of the margin.
15. The request, the description, the claims and the abstract shall be typed or printed.
16. The typing shall be 1,5 line – ca 6 mm-spaced.
17. Only mathematical or chemical formulae and rare graphic characters, symbols or characters in the Greek language may, when necessary, be written by hand.
18. All text matter shall be in black, indelible colour and shall be in characters the capital letters of which are not less than 0,21 cm high.
19. The request, the description, the claims and the abstract shall not contain drawings.
20. The description, the claims and the abstract may contain mathematical or chemical formulae, with the exception of nucleotide and amino acid sequence listings that shall be place at the end of the description as “the sequence listing”.
21. The description and the abstract may contain tables; the claims may contain tables only if their subject matter makes the use of tables desirable.
22. The drawings shall not contain text matter, except a single word or words, when absolutely indispensable, such as “water”, “steam”, “open”, “closed”, “section on AB”. It

is also permissible to place a few short catchwords in flow sheet and block schematic diagrams, if it is indispensable for the understanding of the diagram.

23. Drawings shall be executed in durable, black, intense and harsh lines.
24. Cross-sections of the drawings shall be indicated in oblique hatching which should not impede the clear reading of the reference lines and leading lines.
25. All numbers, letters and reference lines appearing on the drawings shall be simple and clear. Brackets, circles or inverted comas shall not be used in association with numbers and letters.
26. Each elements of each figure shall be in proper proportion to each of other element in the figure, except where the use of a different proportion is indispensable for the clarity of the figure.
27. The height of the numbers and letters in the drawings shall not be less than 0,32 cm.
28. The same sheet of drawings may contain several figures, however clearly separated from one another. It is recommended to arrange the figures in an upright position. The different figures shall be numbered consecutively in Arabic numerals.
29. Reference signs not mentioned in the description shall not appear in the drawings, and vice versa. The same features, when denoted by reference signs, shall, throughout the international application, be denoted by the same signs.
30. *(repealed)*
31. If the drawings contain a large number of reference signs, it is recommended to attach a separate sheet listing all reference signs and the features denoted by them (reference signs listing).

## **Annex 2**

### **REQUIREMENTS FOR THE DOCUMENTS ANNEXED TO PATENT OR UTILITY MODEL APPLICATION**

1. The document of the priority of an earlier application shall consist of:
  - (i) a copy or a duplicate of such application, certified by the authority with which it was filed,
  - (ii) a certificate issued by the authority mentioned in sub-paragraph (i) with the indication of the date of filing of the application and, when appropriate, of the date of displaying the invention or the utility model on the exhibition, referred to in Article 16.

2. The document of the priority of the exhibition on which the invention or the utility model was displayed shall consist of:

- (i) a certificate issued by the director of the exhibition with the confirmation that the invention or the utility model was displayed on that exhibition; the certificate shall contain the surname and first name or the name of the displayer, the name and location of the exhibition, its term and duration, the date of displaying of the invention or the utility model, and a statement of identity of the displayed product with the annexed description and the drawing of that product,
- (ii) the description and the drawing of the displayed product, disclosing its basic technical features confirmed by the director of the exhibition in a manner that raises no doubts as to the authenticity of the content of these documents,
- (iii) where the exhibition was organised abroad – a document stating that it was an official or officially recognised international exhibition.

3. *(repealed)*

4. A declaration of the applicant stating his right to enjoy the earlier priority shall contain:

- (i) the surname and first name of the person or the name of the entity, in favour of which the priority document has been issued,
- (ii) the surname and name or the name of the applicant,
- (iii) the title of the invention or of the utility model and the country, the date and the number of the application or the designation of the exhibition,
- (iv) the statement of the ground on which the right to enjoy the earlier priority is based,
- (v) the signature of the applicant or his representative and the date.

5. An attestation of the deposit of the microorganism shall contain at least:

- (i) the name and address of the of the depositary institution with which the deposit was made,
- (ii) the surname and first name and the address of the depositor,
- (iii) the accession number given to the deposit by the depositary institution,
- (iv) the date of receipt of the biological material by the depositary institution,
- (v) signature of the person authorised to represent the depositary institution.

6. In the case specified in Article 239 of the Law, the power of attorney shall include the authorisation and the statement, referred to in that Article.

7. Where the document referred to in paragraph (1) of this Annex has been executed in a language other than the Polish, English, French, German or Russian, it shall be accompanied by the translation into one of these languages, signed by the translator. The documents and their translations shall be combined in a manner making sure that their contents are identical.

8. Where the documents mentioned in paragraphs (2) – (5) of this Annex, as well as the evidences, referred to in section 22 of the Regulation, have been executed in a language other than the Polish language, they shall be accompanied by the translation into the Polish language. The provision of paragraph (7), second sentence, shall apply accordingly.