

**The Ministry of Justice
Stockholm**

March 5, 2013

PATENTS ACT

(Swedish Statute Book, SFS, 1967:837, as amended up to July 1, 2011)

Unofficial translation

Chapter 1. General Provisions

Article 1. Anyone who has made an invention which is susceptible of industrial application, or his successor in title, is entitled, pursuant to Chapters 1 to 10 of this Act, to obtain, upon application, a patent for the invention in Sweden and thereby acquire an exclusive right to exploit the invention commercially. Provisions concerning European patents are given in Chapter 11.

The following shall never be regarded as an invention: that which is merely

1. a discovery, scientific theory or mathematical method,
2. an aesthetic creation,
3. a scheme, rule or method for performing mental acts, for playing games or for doing business or a computer program, or
4. a presentation of information (*Act 2007:516*)

Article 1 a. Patents shall not be granted in respect of plant and animal varieties. A patent may, however, be granted in respect of an invention that regards plants or animals if the technical feasibility of the invention is not confined to a particular plant or animal variety. The concept of a plant variety is defined in Chapter 1, Article 3, of the Act on the Protection of Plant Varieties Rights (*Act 1997:306*).

Patents shall not be granted in respect of essentially biological processes for the production of plants or animals. As an essentially biological process for the production of plants and animals shall be considered any process which entirely consists of natural phenomena such as crossing or selection. A patent may, however, be granted for an invention that concerns a microbiological or other technical process or a product obtained by means of such a process. As a microbiological process shall be considered any process which is performed upon microbiological material or by means of which such material is used or produced.

An invention may be patentable even if it concerns a product consisting of or containing biological material or a process through which biological material is being produced, processed or used. A biological material which is isolated from its natural environment or produced by means of a technical process may be the subject of an invention even if it previously occurred in nature. Biological material includes any material containing genetic information and being capable of reproducing itself or being in a biological system. (*Act 2004:159*).

Article 1 b. The human body at the various stages of its formation and development, as well as the mere discovery of one of its elements, including the sequence of a gene or a partial sequence of a gene, cannot constitute a patentable invention.

An isolated element of the human body or an element otherwise produced by means of a technical process, including a gene sequence or a partial sequence of a gene, may constitute a patentable invention, even if the structure of that element is identical to that of a natural element. (Act 2004:159).

Article 1 c. Patents shall not be granted for an invention where their commercial exploitation would be contrary to public order or morality.

Exploitation shall not be deemed to be contrary to public order or morality merely because it is prohibited by law or other statutes.

For the purposes of the application of the first Paragraph the following shall, *inter alia*, be considered as contrary to public order or morality,

1. processes for cloning of human beings;
2. processes for modifying the (germ line genetic identity of human beings);
3. the use of human embryos for industrial or commercial purposes, and
4. processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit for humans or animals.

The provisions of the third Paragraph relating to processes for modifying the genetic identity of animals apply, *mutatis mutandis*, to animals produced by means of such a process. (Act 2007:516).

Article 1 d. Patents shall not be granted for a process for surgical or therapeutic treatment or for diagnostics to be practiced on humans or animals. Patents may, however, be granted for products, in particular substances or compositions of substances, for use in any of these processes (Act 2007:516).

Article 2. Patents shall only granted for an invention that is new in relation to what was known before the filing date of the patent application and which also differ essentially therefrom.

Everything made available to the public, regardless of whether this has been made in writing, by lectures, by use or otherwise, shall be considered as known. Also the contents of an earlier patent application filed in Sweden before said date shall be considered as known if that application becomes available to the public pursuant to Article 22. The condition in the first Paragraph that the invention must differ essentially from what was known before the filing date of the patent application does not, however, apply in respect of the contents of such application.

Provisions stating that, when applying the second Paragraph, an application referred in Chapters 3 or 11 in certain cases has the same effect as a patent application made in Sweden are to be found in Articles 29, 38 and 87.

The stipulation in the first Paragraph that the invention shall be new, does not prevent the granting of a patent for a known substance or a known composition of substances for use in a process referred to in Article 1 d, provided that the use of the substance or the composition of substances in any such method is not known. Furthermore this stipulation does also not prevent the granting of a patent for a known substance or a known composition of substances for a specific use in a method referred to in Article 1 d, if such use is not known

A patent may be granted despite the fact that the invention was made available to the public within six months prior to the filing of the patent application

1. in consequence of an evident abuse in relation to the applicant or his predecessor in title, or
2. because the applicant or his predecessor in title has displayed the invention at an official or officially recognised exhibition as referred to in the Convention on International Exhibitions finalised at Paris on November 22, 1928 (SÖ 1996:30) (Act 2011:580).

Article 3. The exclusive right conferred by a patent implies, with the exceptions stated below, that no one, without the consent of the proprietor of the patent may use the invention by

1. making, offering, putting on the market or using a product protected by the patent or importing or possessing such product for these purposes,
2. using a process which is protected by the patent or, knowing, or it being obvious from the circumstances, that the process cannot be used without the consent of the proprietor of the patent, offering the process for use in Sweden,
3. offering, putting on the market, or using a product prepared by a process protected by the patent or importing or possessing the product for these purposes.

The exclusive right also implies that no one may, without the consent of the proprietor of the patent, exploit the invention by offering or supplying to a person who is not entitled to exploit the invention with such means for carrying out the invention in Sweden which relate to an essential element of the invention, if the person offering or supplying the means knows or it is obvious from the circumstances, that said means are suited and intended for use in the carrying out of the invention. If the means are a generally available commercial product, this paragraph only applies if the person offering or supplying the means attempts to induce the receiver to commit the acts referred to in the first Paragraph. In applying the provisions of this paragraph, persons using the invention in a manner specified in the third paragraph, items 1, 3, 4 or 5, shall not be considered as entitled to use the invention.

The following acts are exempted from the exclusive right:

1. use which is not commercial,
2. use of a product that is protected by the patent which is put on the market within the European Economic Area by the proprietor of the patent or with his consent,
3. use of the invention for experiments which relates to the invention itself,
4. studies, tests, examination activities and practical measures which refer to a reference medicine to the extent that these are necessary for obtaining a approval for the sale of a medicine according to Article 8 of the Act (1992:859) on Medicinal Products or for other proceedings for approval based on Article 10.1–4 of the Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to Medicinal Products for Human Use, as last amended by Directive 2004/27/EC, of the European Parliament and of the Council, or Article 13.1–13.5 of Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code Relating to Veterinary Medicinal Products, as last amended by Directive 2004/28/EC of the European Parliament and the Council,
5. preparation in pharmacies of medicines in accordance with a prescription by a physician in an individual case or acts relating to medicines prepared in such cases (Act 2006:254)

Article 3 a. The protection conferred by a patent on a biological material possessing specific characteristics as a result of the invention shall extend to any biological material in an identical or a divergent form possessing those same characteristics derived from the biological material through propagation or multiplication.

The protection conferred by a patent on a process that enables a biological material to be produced, possessing specific characteristics as a result of the invention, shall extend to, in addition to the biological material possessing those characteristics that is directly obtained through this process, also to any other biological material in an identical or a divergent form possessing those same characteristics obtained through propagation or multiplication from the biological material first produced.

The exclusive right conferred by a patent on a product containing or consisting of genetic information shall, save which cannot constitute a patentable invention as provided in Article 1 b, first Paragraph, extend to all material in which the product is incorporated and in which the genetic information is contained and performs its function. (Act 2004:159)

Article 3 b. Where the proprietor of the patent or someone with his consent assigns plant propagating material to a farmer for agricultural use, the farmer may, notwithstanding Articles 3 and 3 a, use the product of the harvest for propagation or multiplication in his own agricultural activity. The extent to, and the conditions of this derogation from the exclusive right of the proprietor of the patent are corresponding to those in Article 14 of the Council Regulation (EC) No 2100/94 of 27 July, 1994 on the Community Plant Variety Right and the Implementing Regulations issued pursuant to that Article.

Where the proprietor of the patent or someone with his consent assigns breeding stock or other animal reproductive material to a farmer, the farmer may, notwithstanding Articles 3 and 3 a, use the livestock or other animal reproductive material for agricultural purposes within his agricultural activity. The farmer may, however, not sell protected breeding stock or other material within the framework or for the purpose of a commercial reproduction activity.

The right of the farmer under the second Paragraph must not be exercised to a wider extent than what is reasonable taking into account the needs of the farmer and the interests of the patent proprietor. (Act 2004:159).

Article 4. Anyone who, at the time when the application for a patent was filed, was using the invention commercially in this country may, notwithstanding the patent, continue such use while retaining its general character, provided the use did not constitute evident abuse in relation to the applicant or his predecessor in title. The right to such use shall also be due on corresponding conditions to anyone who has made substantial preparations for commercial use of the invention in this country.

The right according to the first Paragraph may only be transferred to others together with the business where it originated or where the use was intended to take place.

Article 5. Notwithstanding the existence of a patent, an invention may be used on a foreign vessel, aircraft, or other foreign means of communication for its own needs when temporarily enters this country in regular traffic or otherwise.

The Government may decree that, notwithstanding the existence of a patent, spare parts and accessories may be imported into this country and used here for the repair of an aircraft from a foreign country in which corresponding privileges are granted to Swedish aircraft (Act 1977:700).

Article 6. An application for a patent on an invention which was disclosed, within twelve months prior to the filing date according to Articles 8 b or 8 c, in an earlier application for a patent in Sweden, shall, when applying Article 2, first, second and fourth Paragraphs, and Article 4, be considered to have been filed simultaneously with the earlier application, if the applicant so claims in accordance with Articles 6 a to 6 e (priority). The same applies in respect of an application for a patent on an invention which was disclosed, within twelve months prior to the filing date, in an earlier application for a patent, an inventors' certificate or protection as a utility model either in a foreign state party to the Paris Convention of March 20, 1883, for the Protection of Industrial Property (SÖ 1970:60) or in a state or a territory party to the Agreement Establishing the World Trade Organization (WTO). Such priority may be enjoyed also from an application for protection relating to any other state or any other territory, if a corresponding priority from a Swedish patent application is granted where the earlier application was filed and if the legislation in force there essentially corresponds to the Paris Convention for the Protection of Industrial Property. (Act 2011:580)

Article 6 a. If the applicant wants to claim priority from an earlier application, a request to this effect shall be filed within 16 months from the filing date for the application which is claimed as giving rise to priority, or, if that point in time is later, within four months from the filing date for the latest application according to Articles 8 b or 8 c. When priority is claimed, the applicant shall provide information about where and when the application was filed to which reference is made and, if this is an international application, with which Receiving Authority it was filed. The applicant shall also, as soon as possible, indicate the number of the earlier application.

The applicant may, within the time and under the conditions prescribed in the first Paragraph, make an amendment in respect of the claim for priority by a communication to this effect to the Patent Authority. If the amendment confers that the filing date for the application claimed as giving rise to priority becomes a date earlier than the filing date originally claimed, the new filing date shall apply when applying the first Paragraph.

In the case of an international patent application according to Chapter 3, priority shall be claimed in the application or within the time prescribed in the fourth Paragraph. The applicant shall at the same time provide information about where and when the application was filed to which reference was made and its number and, in the case of an international patent application, with which Receiving Authority it was filed.

In respect of an application referred to in the third Paragraph, the applicant may make an amendment in respect of the claim for priority through a communication to this effect to the Receiving Authority or to the international bureau as prescribed in Article 35. If the amendment confers that the applicant claims priority from an application other than the one originally claimed, the applicant shall, in the communication, provide information about the application as prescribed in the third Paragraph. Such a communication shall be filed within 16 months from the filing date for the application that is claimed as a basis for priority. If the amendment implies that the filing date is a date earlier than the filing date originally claimed, the communication shall be made within 16 months from the new filing date. The applicant has, however, always the possibility to file a communication about an amendment within four months from the international filing date.

If several inventions are described in the basic documents and the application is divided in accordance with regulations prescribed pursuant to Article 11, a claim for priority for the original application shall apply also to any new application resulting from the division.

A request or communication pursuant to the first to fourth Paragraphs, cannot be made if the applicant has requested an earlier publication according to 22, third Paragraph. (Act 2007:516).

Article 6 b. An applicant who has claimed priority shall within 16 months from the date from which priority is claimed file the following documentation relating to the previous application with the patent authority

1. a certificate indicating the name of the applicant and the filing date, issued by the Receiving Authority,
2. a copy of the application certified by the same Authority

A certificate or a copy as mentioned in the first Paragraph does not have to be filed if the earlier application was filed with the Patent Authority. (Act 2007:516).

Article 6 c. In the case of an international patent application according to Chapter 3, the provisions of the second to fourth Paragraphs apply with regards to the applicant's obligations according to Article 6 b.

The applicant shall file the certificate referred to in Article 6 b, first Paragraph item 1, only if the Patent Authority invites the applicant to do so.

Instead, the applicant may, in accordance with Rule 17.1 in the Regulations under the Patent Cooperation Treaty done at Washington on June 19, 1970, file the copy of the earlier application with the International Bureau mentioned in Article 35 or with the Receiving Authority, or request it to be transferred to the International Bureau according to the same Rule.

If a copy of the earlier application has been received by the International Bureau in accordance with the Rule referred to in the third Paragraph, the Patent Authority may request a copy and a translation of such a copy only in conformity with Rule 17.2 of the Regulations referred to in the third Paragraph. (Act 2007:516).

Article 6 d. Priority may be claimed only on the basis of the first application in which the invention was disclosed.

If the person who filed the first application or his or her successor in title has later, with the same Authority, filed an application relating to the same invention, the later application may be claimed as a basis for priority. This applies, however, only if the prior application has, when the later application is filed,

1. been withdrawn, dismissed or rejected without having been published, and
2. the earlier application does not leave any rights outstanding that is based on it or has served as the basis for any right of priority.

If anyone has been granted a right of priority on the basis of a subsequent application according to the second Paragraph, the prior application may no longer be invoked as a basis for a claim for a right of priority. (Act 2007:516).

Article 6 e. An applicant may obtain priority also for a part of an application.

Priority in respect of one and the same application may be claimed from several prior applications. This applies also if the applications relate to several countries. (Act 2000:1158).

Article 6 f. The Government or, following an authorization by the Government, the Patent Authority may issue provisions concerning

1. in which form a claim for priority shall be made,
2. in which form evidence and copies referred to in Article 6 b shall be filed.

The Government or, following an authorization by the Government, the Patent Authority may issue provisions on exceptions in certain cases from the obligation under Articles 6 b – 6 c to file evidence and copies (*Act 2000:1158*).

Article 6 g. If the provisions in Articles 6 a – 6 e are not complied with, the right of priority shall not apply. (*Act 2000:1158*).

Chapter 2. The Processing of Swedish Patent Cases (*Act 1993:1406*)

Article 7. The the Patent Authority in this Act refers to the Patent Authority in this country unless otherwise stated. The Patent Authority in this country is the Patent and Registration Office. (*Act 1978:149*).

Article 8. An application for a patent shall be made in writing and filed with the Patent Authority or, in cases referred to in Chapter 3, with the patent authority in a foreign state or with an international organization.

The application shall contain a description of the invention, also comprising drawings if such are necessary, and distinct indications about what is sought to be protected by the patent (patent claims). The fact that the invention relates to a chemical compound does not imply that a specified use must be disclosed in the patent claim. The application shall contain a statement as to how the invention is susceptible of industrial application, if it does not follow from the character of the invention. If the invention which relates a gene sequence or a partial sequence of a gene, the application must, however, always disclose the industrial application. The description shall be sufficiently clear for it to be carried out by a person skilled in the art with the guidance thereof. An invention which relates to a biological material, or involves the use of such material, shall, in those cases referred to in article 8 a, be considered to be disclosed with sufficient clarity only if the conditions in said article are also fulfilled.

The application shall also contain an abstract of the description and the patent claims. The abstract is intended merely to provide technical information about the contents of the patent application and it may not be taken into account for any other purpose.

The applicant shall state the inventor's name and the address in the application. If a patent is applied for by someone other than the inventor, the applicant shall, in the application, state the basis for his right to the invention. The Patent Authority shall accept this statement, if there is no specific reason to question whether it is correct.

The Patent Authority shall notify the person whom the applicant has stated (?) as the inventor, about the application, where this is not evidently unnecessary.

The applicant shall pay an application fee. For the application, an annual fee shall also be paid for each fee year beginning before the application has finally decided on.

A fee year according to this Act comprises one year and is calculated from the date of filing pursuant to articles 8 b or article 8 c. and thereafter from the corresponding date according to the calendar. (Act 2007:517).

Article 8 a. If an invention relates to a biological material which is neither available to the public nor can be described in the application documents so as to enable a person skilled in the art to carry out the invention with the guidance thereof, or if the invention implies the use of such material, the biological material shall be deposited no later than on the date of filing of the application. The biological material shall thereafter be continuously kept deposited so that anyone who is entitled under this Act to receive samples of the material can have his sample delivered in Sweden. The Government specifies where deposits may be made.

If a deposited biological material ceases to be viable or if samples from the material for another reason cannot be supplied, it may be replaced by a new deposit of the same biological material within the time and in the manner prescribed by the Government. If this has been done, the new deposit shall be considered to have been made on the date when the earlier deposit was made (Act 2004:159).

Article 8 b. The filing date for a patent application shall be the date when the following information has been filed:

1. an explicit or implicit indication that what has been filed is an application for a patent,
2. information that makes it possible for the Patent Authority to determine who the applicant is and to contact him, and
3. indications that appear to be
 - a) a description of the invention, or
 - b) drawings relating to the invention, or
4. a reference to an earlier filed patent application, and, if this application has not been filed with the Patent Authority, a copy of the application and an indication of its filing date, number and the Patent Authority with which it has been filed.

If the requirements for determining a filing date have not been met and the Patent Authority has information that makes it possible to contact the applicant, the Patent Authority shall without delay invite the applicant to remedy the deficiencies within two months from the date of the invitation.

If the deficiencies have not been remedied within the time prescribed, no patent application shall be considered to have been filed and the case be dismissed. The same shall apply if it has not been possible to issue an invitation and the deficiencies have not been remedied within two months from the date when any of the information according to the first Paragraph was filed. Information about the consequences that would follow if the deficiencies have not been remedied shall be included in the invitation.

If the deficiencies have been remedied within the time prescribed in the third paragraph, the filing date for the patent application shall be considered to be the date when all the deficiencies have been remedied, unless otherwise follows from Article 8 c. (Act 2007:516).

Article 8 c. If the Patent Authority finds, in the course of the examination pursuant to Article 8 b, that a part of the description, or a drawing to which reference is made in the description or in the patent claims, is missing, the applicant shall be invited to complete the documentation within two months from the date of the invitation. If a completion of such missing parts is provided within the time prescribed in the invitation, the date of filing shall be considered to be the later date when the completion was provided, unless otherwise follows from the second and third paragraphs. The same applies if an invitation has not been issued and a completion has been provided within two months from the date when any of the information items according to Article 8 b, first paragraph, was filed.

If completing parts of an application are withdrawn within one month from their filing according to the first paragraph, the original filing date for the application shall apply.

If completing parts of an application have been filed in accordance with the first paragraph, the original filing date shall apply, if

1. priority from an earlier application is invoked [claimed] and the completing parts are evident in their entirety from the earlier application, and
2. the applicant so requests and he or she files a copy of the earlier application within the time prescribed in the first paragraph.

A copy as referred to in the third Paragraph, item 2, does not have to be filed if the earlier application was filed with the Patent Authority. (Act 2007:516).

Article 9. If the applicant so demands and pays the special fee, the Patent Authority shall, on the conditions determined by the Government, allow the application to become subject to such a novelty search by an International Searching Authority as referred to in Article 15.5 of the Patent Cooperation Treaty done at Washington on June 19, 1970.

Article 10. Patents for two or more mutually independent inventions may not be applied for in a single application.

Article 11. If a patent is sought for an invention disclosed in a patent application filed earlier by the applicant and not finally decided upon, the later application shall, on conditions determined by the Government, be regarded [considered] as filed at the time when the documents disclosing the invention were filed with the Patent Authority, if the applicant so requests. (Act 1977:700).

Article 12. The Patent Authority may invite an applicant who does not have his domicile in Sweden to appoint a representative who shall be entitled to receive communications served in the case and who has his domicile in this country, and to notify the Authority about the representative. If the applicant disregards the invitation, the serving of communications may be carried out through the transmission by mail to the applicant under his latest known mailing address. The serving shall be considered to have been effected when this has been done. (Act 2000:1158).

Article 13. An application for a patent must not be amended in such a way that patent is claimed for something that did not appear from the application on the filing date. (Act 2007:516).

Article 14. *(Repealed by Act 2007:516).*

Article 15. If the applicant has not, in cases other than those referred to in articles 8 b and 8 c, complied with the requirements regarding the application, or if the Patent Authority finds other obstacles to the approval of the application, the applicant shall be invited to submit, within a specified term, observations or make corrections. In this context, the Patent Authority may, however, without consulting the applicant make such amendments as it considers necessary.

If the applicant fails, within the term prescribed, to submit observations or take measures to remedy any deficiency indicated, the application shall be dismissed. A notice to this effect shall be included in the invitation (official action)?.

A dismissed application shall be reinstated, if the applicant, within four months from the expiry of the prescribed term, submits observations or takes measures to remedy any deficiency indicated and within the same term pays the prescribed reinstatement fee.

If the applicant does not pay the annual fee according to Articles 8, 41 and 42, the application shall be dismissed without any preceding invitation. An application which has been dismissed on this basis may not be reinstated. (Act 2007:516).

Article 16. If, after the applicant has submitted his observations, there are still obstacles to approving the application, and the applicant has been given an opportunity to submit observations concerning the obstacle, the application shall be rejected, unless there are reasons for issuing a new invitation to the applicant.

Article 17. If anybody claims before the Patent Authority that the proper title to the invention belongs to him and not to the applicant, and if the case is considered doubtful, the Patent Authority may invite (direct) him to bring action before a court within a certain time at the risk of the claim will be disregarded in the further examination of the patent application.

If a litigation relating to the proper title to the invention is pending before a court, the patent application may be declared in abeyance until the litigation is finally settled by the court.

Article 18. If anybody proves before the Patent Authority that the proper title to the invention belongs to him and not to the applicant, the Patent Authority shall transfer the application to him, if he so requests. The transferee shall pay a new application fee.

If a request for a transfer is made, the application may not be dismissed, rejected or approved until the request has been finally decided upon.

Article 19. If the application is complete and no obstacles to a patent are found, the Patent Authority shall notify the applicant that a patent can be granted.

The applicant shall pay a prescribed grant fee within two months from the date of the notification. If this is not done, the application shall be dismissed. The processing of a dismissed application shall be resumed if the applicant pays the grant fee and a prescribed resuming fee within four months from the expiration of the two months.

If a patent is sought by an inventor who has considerable difficulties in paying the grant fee, the Patent Authority may exempt him from this obligation, if he files a written request to that effect within two months from the date of the notification. If the Patent Authority rejects the request by the inventor, a fee that is paid within two months thereafter shall be considered to have been paid within the proper time limit. (*Act 1993:1406*).

Article 20. If the applicant has fulfilled the requirements of Article 19 and there is still no obstacle to a patent, the Patent Authority shall grant the application. The decision shall be announced.

When the decision to approve the patent application has been announced, a patent is granted. A patent that has been granted shall be recorded in the Patent Register kept by the Patent Authority. A Patent Certificate shall also be issued.

After the patent has been granted, the claims may not be amended so that the scope of the patent protection is extended. (*Act 1993:1406*).

Article 21. From the date when the patent is granted, a patent specification shall be kept available at the Patent Authority. The patent specification shall contain a

description, the patent claims and an abstract as well as information concerning the patent proprietor and the inventor. (Act 1993:1406).

Article 22. The documents in the case shall be made publicly available from the date the patent is granted.

Eighteen months from the date when the patent application was filed or, where priority was claimed, the priority date, the documents shall, if they have not already been made available according to the first Paragraph, be made publicly available to anyone. If, however, the application has been dismissed or rejected, the application shall be made publicly available only if the applicant requests the application to be resumed, or lodges an appeal or files a request pursuant to Article 72 or 73.

At the request of the applicant, the documents shall be made publicly available earlier than what follows from the first and second Paragraphs.

When the documents become publicly available pursuant to the second or third Paragraph, this shall be announced.

If a document contains a business secret and if it does not concern an invention for which a patent is sought or has been granted, the Patent Authority may, upon request and if there are special reasons for this, decide that the document shall not be delivered until the request has been refused through a decision that has gained legal force.

If a biological material has been deposited pursuant to Article 8 a, anyone has, subject to the limitations prescribed in this and the following Paragraphs, the right to obtain a sample of the material after the documents have been made available to the public according to the first, second or third Paragraph. This applies regardless of whether the patent has expired or is invalidated. A sample may not be delivered to anyone who, pursuant to provisions in law or other statute, is not entitled to handle the deposited material. Furthermore, a sample may not be delivered to anyone whose handling of the sample may be assumed to involve an evident risk in view of the harmful properties of the material.

Until the patent has been granted or the patent application has been finally decided upon without having resulted in a patent, samples from a deposit may be delivered only to a special expert, if the applicant so requests. If the patent application is rejected or is withdrawn, the corresponding applies for a period of 20 years from the date when the application was filed. The Government prescribes the time within which the request can be made and who may be called as an expert by a person wishing to obtain a sample.

Anyone who wishes to obtain a sample shall make a written request in this respect to the Patent Authority and file a commitment with the contents prescribed the Government to prevent misuse of the sample. If a sample may be delivered only to

a special expert, the commitment shall instead be filed by him or her. (Act 2004:159).

Article 23. If the Patent Authority dismisses or rejects an application that has made available to anyone, this decision shall be announced when it has gained legal force. (Act 1993:1406).

Article 24. Anyone other than the patent proprietor is entitled to file an opposition against a patent that has been granted. Any opposition shall be filed in writing with the Patent Authority within nine months from the date when the patent was granted.

The Patent Authority shall notify the patent proprietor about the opposition and give him an opportunity to submit observations.

If the opposition is withdrawn, the opposition procedure may nevertheless be completed if there are special reasons for this. (Act 2007:516).

Article 25. The Patent Authority shall, after an opposition, revoke the patent if it

1. was granted despite the fact that the requirements under Articles 1 and 2 are not fulfilled,
2. relates to an invention that is not so clearly described that a person skilled in the art can carry it out with the guidance of the description, or
3. covers a matter that is not evident from the application as filed.

The Patent Authority shall reject the opposition if there is no obstacle pursuant to the first Paragraph to maintaining the patent.

If during the opposition proceedings the patent proprietor has made such amendments that there are no obstacles pursuant to the first Paragraph to maintaining the patent in its amended form, the Patent Authority shall declare that the patent is maintained in its amended form.

When the decision by the Patent Authority relating to an opposition has gained legal force, it shall be announced. If the decision involves that the patent is amended, a new patent specification shall be held available at the Patent Authority and a new Patent Certificate shall be issued. (Act 2004:159).

Article 26. A final decision by the Patent Authority concerning an application for a patent may be appealed by the applicant if the decision is not in his or her favour. A final decision according to Article 8 b, third Paragraph, may be appealed by the patent proprietor and the person who has filed an opposition, if the decision is adverse to the party wishing to appeal. If the person who has filed an opposition, withdraws his appeal, it may nevertheless be considered if there are special reasons for this.

A decision whereby a request for reinstatement according to Article 15, third Paragraph, or Article 19, second Paragraph, or a request for a transfer according to Article 18 has been approved, may be appealed by the applicant. A decision by which a request for transfer according to Article 18 has been rejected, may be appealed by the person who made the request.

A decision by which a request for an order according to Article 22, fifth Paragraph, has been rejected may be appealed by the person who made the request.

Provisions concerning appeal against decisions according to Articles 42, 72 or 73, are included in Article 75. (Act 2007:516).

Article 27. Appeals under Article 26, are lodged with the Court of Patent Appeals within two months from the date of the decision.

A final decision by the Court of Patent Appeals may be appealed against to the Supreme Administrative Court within two months from the date of the decision. The appeal may not relate to patent claims other than those that have been considered in the appealed decision. In other respects, the provisions in Articles 35 to 37 of the Code of Administrative Procedures (1971:291) concerning appeals against decisions by the Administrative Court of Appeal shall apply. The decision by the Court of Patent Appeals shall contain information to the effect that a special review permit is required for consideration of appeals by the Supreme Administrative Court and the grounds on which such permit is granted.

The provisions of Section 22, fifth Paragraph, shall apply to documents that are filed with the Court of Patent Appeals or the Supreme Administrative Court (Act 2010:1395).

Chapter 3. International Patent Applications

Article 28. The notion “international patent application” refers to an application made pursuant to the Patent Cooperation Treaty done at Washington on June 19, 1970.

An international patent application shall be filed with a Patent Authority or an International Organisation that is, according to the Patent Cooperation Treaty and its Regulations, authorised to receive such applications (Receiving Authority). The Swedish Patent Authority shall be Receiving Authority in accordance with what the Government prescribes. The applicant shall pay the prescribed fee for an international patent application filed with the Swedish Patent Authority.

The provisions of Articles 29 to 38 apply to international patent applications designating Sweden. If, however, the application concerns a European patent for Sweden, Chapter 11 shall apply (Act 2007:700).

Article 29. An international patent application for which the Receiving Authority has accorded an international filing date, shall in Sweden have the same effect as a Swedish patent application with the same filing date. The provisions of Article 2, second Paragraph, second sentence, shall, however, apply only if the application has been pursued in accordance with Article 31. (*Act 2007:516*).

Article 30. An international patent application shall be considered withdrawn as regards Sweden in the cases referred to in Article 24(1)(i) and (ii) of the Patent Cooperation Treaty.

Article 31. If the applicant wants to pursue an international patent application in Sweden, the applicant shall within 31 months from the international filing date, or, where priority is claimed, the date from which priority is claimed, file, with the Patent Authority, a translation into Swedish of the international patent application to the extent prescribed by the Government or, if the application is drafted in Swedish, a copy of the application. The applicant shall within the same period, pay a fee to the Patent Authority.

If the applicant has paid the fee within the period prescribed in the first Paragraph, the translation or the copy required, may be filed within an additional period of two months, provided that an additional fee is paid within the latter time period.

If the applicant does not observe the provisions in this Article, the application shall be deemed to be withdrawn in so far as Sweden is concerned. (*Act 2007:516*).

Article 32. (*Repealed by Act 2007:516*).

Article 33. If an international patent application has been pursued according to Article 31, the provisions in Chapter 2 concerning the application and its processing shall apply unless otherwise provided in this Article or in Articles 34 to 37. The application may only upon a request by the applicant be taken up for consideration before the expiry of the time limit that applies according to Article 31, first Paragraph.

An invitation according to Article 12 may not be issued before the point in time when the Patent Authority has the right to commence the consideration of the application.

The provisions of Article 22, second and third Paragraphs, become applicable already before the application has been pursued as soon as the applicant has met his obligation under Article 31 to file a translation of the application or, if the application is drafted in Swedish, as soon as the applicant has filed a copy of it with the Patent Authority.

In respect of an international patent application shall, for the purposes of the application of Articles 48, 56 and 60, the provisions included there concerning the making available of the documents in the application case under Article 22, refer

instead to the making available of the documents under Article 22 with application of the third Paragraph.

If a patent application meets the obligations as regards form and contents that are prescribed in the Patent Cooperation Treaty and its Regulations, it shall be accepted in these respects. (Act 2007:516).

Article 34. For an international patent application, the Patent Authority may not grant a patent or decide to reject it before the expiry of the time limit prescribed by the Government, unless the applicant agrees to an earlier decision concerning the application. (Act 1993:1406).

Article 35. In respect of an international patent application the Patent Authority may not, without the consent of the applicant, grant a patent or make publicly available the application before the International Bureau of the World Intellectual Property Organization has published the application or twenty months have lapsed from the international filing date or, if priority is claimed, the date from which priority is claimed. (Act 1993:1406).

Article 36. If a part of an international patent application has not been the subject of an international search or an international preliminary examination because the application was found to encompass mutually independent inventions and because the applicant did not pay, within the prescribed time limit, the additional fee pursuant to the Patent Cooperation Treaty, the Patent Authority shall consider if the finding was correct. If the Patent Authority concludes that the finding was correct, the part of the application that was not the subject of such a search or such an examination shall be considered to be withdrawn at the Patent Authority if the applicant does not pay the prescribed fee within two months from the time when the Patent Authority sent a notification to him about its decision. If the Patent Authority concludes that the finding was not correct, the Patent Authority shall proceed with the examination of the application in its entirety.

A decision pursuant to the first Paragraph, whereby the Patent Authority has concluded that the patent application encompasses mutually independent inventions, may be appealed by the applicant. The provisions of Article 27, first and second Paragraphs, apply.

If the Court finds the decision by the Patent Authority to be correct, the time limit for the payment of such a fee as referred to in the first Paragraph, second sentence, shall be computed from the date when the Patent Authority sent to the applicant a notification of the decision of the Court that has gained legal force. (Act 1993:1406).

Article 37. If a part of an international patent application has not been the subject of an international preliminary examination because the applicant has restricted the claims after having been invited by the Authority entrusted with such an examination to either restrict the claims or pay additional fees, the part of the

application that has not been examined shall be considered as withdrawn at the Patent Authority unless the applicant pays the prescribed fee to the Authority within two months after the Authority sent him a notification to that effect.

Article 38. If the Receiving Authority has refused to accord an international filing date to an international patent application or has declared that the application shall be considered withdrawn or that the request that the application shall designate Sweden shall be considered withdrawn, the Patent Authority shall, at the request of the applicant, review the said decision. The same shall apply in respect of a decision by the International Bureau that the application shall be considered withdrawn.

A request for review pursuant to the first Paragraph shall be filed with the International Bureau within the time limit prescribed by the Government. Within the same time limit, the applicant shall file with the Patent Authority a translation of the application to the extent prescribed by the Government and pay the prescribed application fee.

If the Patent Authority concludes that the decision of the Receiving Authority or the International Bureau was not correct, the Patent Authority shall process the application pursuant to Chapter 2. If an international filing date has not been accorded by the Receiving Authority, the application shall be considered to have been filed on the date that the Patent Authority deems should have been accorded as the international filing date. If the application fulfils the requirements as to form and content prescribed in the Patent Cooperation Treaty and its Regulations, it shall be accepted in these respects.

The provision in Article 2, second Paragraph, item 2, shall apply to an application which has been taken up for processing pursuant to the third Paragraph, if the application becomes publicly available pursuant to Article 22. (*Act 1983:433*).

Chapter 4. The Extent and Term of the Patent

Article 39. The extent of the patent protection is determined by the patent claims. For the understanding of the patent claims, guidance may be sought from the description.

Article 40. A patent granted may be kept in force until twenty years have passed from the date when the patent application was filed.

For a patent a prescribed annual fee shall be paid for each fee year commencing after the grant. If the patent has been granted before annual fees for the patent application have commenced to become due under Article 41, the patent proprietor shall, however, when the annual fee for the patent for the first time becomes due, pay also the annual fees for the fee years commencing before the grant.

Provisions concerning supplementary protection for medicinal products are included in Chapter 13. (*Act 1996:889*).

Chapter 4 a. Limitation of Patents, etc.

Article 40 a. A patent proprietor may file a request with the Patent Authority to the effect that

1. one or more patent claims and, where this is necessary, the description be amended so that the patent protection is limited (patent limitation), or
2. the patent be revoked.

A request pursuant to the first Paragraph shall be rejected if, at the time of the request, an opposition proceeding pursuant to Article 24 or pursuant to Article 99 of the Convention on the Granting of European Patents (the European Patent Convention) done at Munich on October 5, 1973, or a case for invalidation pursuant to Article 52 relating to the patent are in progress. If the patent proprietor has requested, or requests, that the patent shall be limited or revoked pursuant to Article 105 a of the European Patent Convention, a request according to the first Paragraph shall be declared in abeyance until the European Patent Office has issued a final decision on the matter.

A request pursuant to the first Paragraph must not be approved without the consent of the right-owners concerned as long as the patent is put under legal seizure, or sequestered or put on hold for ensuring payment, or a dispute on the transfer of the patent is pending in a Court.

The patent proprietor shall pay a special fee for a request pursuant to the first Paragraph. (Act 2007:516)

Article 40 b. If the patent proprietor has not complied with the provisions of Article 40 a or if a request for the limitation of a patent is not in conformity with the provisions of Article 52, first Paragraph, items 2 to 4, on invalidity, the patent proprietor shall be invited to submit a correction within a certain period of time.

If the patent proprietor does not reply or if the request cannot be approved even after the patent proprietor has submitted a statement, the request shall be rejected, if

1. the patent proprietor has been given an opportunity to submit a statement concerning the obstacle, and
2. there is no reason to issue a new invitation to the patent proprietor. (Act 2007:516).

Article 40 c. If the Patent Authority finds that there are no obstacles to an approval of a request pursuant to Article 40 a, the patent shall be limited or revoked in conformity with the request. The Patent Authority shall publish the decision. If the patent has been limited, the Patent Authority shall issue a new patent certificate and make a new patent document available.

The decision by the Patent Authority shall have effect from the date of the filing of the patent application. (Act 2007:516).

Article 40 d. In cases relating to infringement of a patent or to revocation of a patent, the patent proprietor has an obligation to inform the Court about the fact that a request for a limitation or revocation of the patent has been made. (Act 2007:516).

Chapter 5. Payment of Annual Fees

Article 41. The annual fee shall be due for payment on the last day of the calendar month during which the fee year begins. The annual fees for the first two fee years shall, however, be due only at the same time as the fee for the third fee year is due. Annual fees may not be paid earlier than six months before becoming due for payment.

For such later application as is referred in Article 11, the annual fees for fee years which have commenced before the date on which the later application was filed or which begins within two months from the said date shall in no case be due before two months have passed from the said date. For an international patent application, the annual fees for fee years which have commenced before the date when the application was pursued in accordance with Article 31 or was taken up for processing pursuant to Article 38 or which commences within two months from the said date, shall not in any case be due before two months have passed from the date when the application was pursued or was taken up for processing.

An annual fee, together with the prescribed increase, may be paid within six months after the date when it becomes due. (Act 1983:433)

Article 42. If the inventor is the applicant or the proprietor of the patent and if he has considerable difficulty in paying the annual fees, the Patent Authority may give him a respite for the payment if he makes a request to that effect not later than when the annual fees become due for the first time. Respites may be given for up to three years at a time but not more than until three years have passed from the grant of the patent. Any request for an extension of the respite shall be made before a respite already granted has expired.

If a request for respite or for an extension of the respite is refused, a fee that is paid within two months thereafter shall be considered to have been paid in time.

Annual fees, for the payment of which a respite has been granted under the first Paragraph, may be paid together with the same increase as referred to in Article 41, third Paragraph, within six months after the point in time until which a respite has been obtained. (Act 1983:433).

Chapter 6. Licenses, Assignments, etc.

Article 43. If the patent proprietor has granted another party the right to exploit an invention commercially (license), the licensee may assign his right to others only if an agreement to that effect has been concluded.

Article 44. If a patent has been transferred to another party or a license has been granted, this fact shall, upon request, be recorded in the Register of Patents.

If it has been proved that a license recorded in the Register has ceased to be valid, the recording of the license shall be cancelled.

The provisions of the first and second Paragraphs shall apply, *mutatis mutandis*, to compulsory licenses and rights referred to in Article 53, second Paragraph.

In lawsuits and other legal cases concerning a patent, the party shall be deemed to be the patent proprietor who has last been recorded in the Register of Patents in such capacity.

Article 45. A compulsory license for the use of an invention in Sweden may be granted if

1. three years have passed from the granting of the patent and four years from the filing of the patent application,
2. the invention is not used to a reasonable extent in Sweden, and
3. there is no acceptable reason for the non-use of the invention.

For the purposes of the application of the first Paragraph, item 2, use of an invention equals importation of the invention to Sweden from a State within the European Economic Area or a State or a territory that is party to the Agreement Establishing the World Trade Organization (WTO). (Act 2004:159).

Article 46. A proprietor of a patent for an invention of which the exploitation is depending on a patent that belongs to someone else may be granted a compulsory license to exploit the invention protected by the other patent. Such a license may be granted only if the applicant proves that the first-mentioned invention constitutes a significant technical progress of considerable economic interest compared with the other invention.

If a compulsory license is granted pursuant to the first Paragraph, the proprietor of the patent for which a compulsory license has been granted is entitled to obtain, on reasonable conditions, a compulsory license (cross-license) to exploit the other invention. (Act 2004:159).

Article 46 a. A plant breeder who cannot obtain or exploit a plant variety right or a Community plant variety right without infringing a prior patent, may obtain a compulsory license to exploit the invention that is protected by the patent to the extent that such a license is necessary for the plant variety to be exploited. Such a license may be granted only if the applicant proves that the plant variety constitutes

a significant technical progress of considerable economic interest compared with the invention.

Of a patent proprietor obtains a compulsory license in a plant variety right or a Community plant variety right, the proprietor of the plant variety right is entitled to obtain, on reasonable conditions, a compulsory license (cross-license) to exploit the invention of the patent proprietor.

Provisions on the possibility for the proprietor of a patent on a biotechnical invention to obtain, under certain conditions, a compulsory license to exploit a protected plant variety are contained in Chapter 7, Article 3a, of the Act on the Protection of Plant Variety Rights (1997:306) and, in so far as concerns the Community plant variety rights, in Article 29 of the Council Regulation (EEC) No 2100/94 of 27 July 1994 on the Community Plant Variety Rights. (Act 2997:516).

Article 47. If a public interest of extreme importance so requires, anyone who desires to make commercial use of an invention for which another party holds a patent may obtain a compulsory license to that effect.

Article 48. Any person who in this country was commercially exploiting an invention that is the subject of a patent application at the time when the application documents were made available pursuant to Article 22, shall, if the application results in a patent, obtain a compulsory license for the exploitation if particularly strong reasons are present and he had no knowledge of the application and had not reasonably been able to obtain such knowledge. Under corresponding conditions such a right shall also be granted to anyone who had made substantial preparations for commercial exploitation of the invention in this country. Such a compulsory license may also apply for a period of time before the patent was granted.

Article 49. A compulsory license may only be granted to a party that can be assumed to exploit the invention in an acceptable manner and in accordance with the license. The applicant must also prove that he or she has unsuccessfully turned to the patent proprietor to obtain a contractual license on reasonable conditions.

A compulsory license does not prevent the patent proprietor from exploiting himself or herself the invention or to grant licenses. A compulsory license may be assigned to someone else only together with a business where it is exploited or intended to be exploited. In respect of compulsory licenses referred to in Article 46, first Paragraph, and Article 46 a, first Paragraph, also applies that the license may be assigned only together with the patent or the plant variety right to which the license applies. (Act 2004:159).

Article 50. A compulsory license is granted by a Court, which also decides to what extent the invention may be exploited and determines the remuneration and other terms for the license. When substantially changed circumstances call for it, the Court may, upon request, revoke the license or establish new conditions for it.

Chapter 7. Termination of Patents, etc.

Article 51. If the annual fee for a patent is not paid pursuant to the provisions of Articles 40, 41 and 42, the patent shall lapse as of the beginning of the fee year for which the fee has not been paid. (Act 1983:433).

Article 52. If a claim to this effect is made, the Court shall invalidate a patent if

1. it has been granted despite the fact that the requirements under Articles 1 and 2 are not fulfilled,
2. it relates to an invention which is not described in a way sufficiently clear for a person skilled in the art to carry out the invention with the guidance thereof,
3. it contains something that did not appear in the application on the filing date, or
4. the scope of the patent protection has been expanded after the grant of the patent.

If only a certain part of a patent is invalid, the scope of the patent protection shall be limited correspondingly, through an amendment of the patent claims, if

1. the patent proprietor so requests, and
2. this is in conformity with the first Paragraph, items 2 to 4.

A patent must not be invalidated only on the ground that the person who has been granted the patent is entitled only to a certain part of it.

Except in cases provided for in the fifth Paragraph, a court action may be brought by anyone who suffers damage from the patent and, where this is called for in the public interest, by a Public Authority designated by the Government.

An action based on the allegation that the patent has been granted to a party other than the one that is entitled to the patent under Article 1 may only be brought by the party that claims to be entitled to the patent. The action shall be brought within one year after the party that claims to be entitled to such a right obtained knowledge of the grant of the patent and of other facts on which the action is based. If the patent proprietor was in good faith when the patent was granted or when it was assigned to him, the action may, however, be brought no later than three years from the grant of the patent. (Act 2007:516).

Article 53. If a patent has been granted for a party other than the one who is entitled to the patent according to Article 1, the Court shall, upon an action by the party that is entitled to the patent, transfer it to him or her. The provisions of Article 52, fifth Paragraph, shall apply with respect to the time within which an action shall be brought.

If the party that is deprived of the patent has, in good faith, commenced the exploitation of the invention commercially in Sweden or made substantial preparations therefore, he or she shall be entitled, against a reasonable remuneration and on other reasonable terms, to continue the exploitation or

implement the exploitation as planned, while retaining its general character. Such a right has, under corresponding conditions, also anyone who holds a license which is recorded in the Register of Patents.

A right referred to in the second Paragraph may be transferred to someone else only together with the business in which the right has been exploited or was intended to be exploited. (Act 2007:516).

Article 54. If the patent proprietor renounces the patent in writing to the Patent Authority, the Authority shall declare that the patent has been terminated in its entirety.

If the patent is seized for debt, sequestered or put as a guarantee for payment, or if there is a litigation pending at a Court concerning the transfer of the patent, the patent must not be declared terminated as long as the seizure, the sequestration or putting on hold for ensuring payment is still valid, or the dispute has not been finally decided. (Act 2007:516).

Article 55. When a patent has lapsed or has been declared terminated or, through a judgement that has gained legal force, been declared invalid or transferred, the Patent Authority shall announce this. (Act 1978:149).

Chapter 8. Obligation to Provide Information.

Article 56. If a patent applicant invokes his or her application against another party before the documents in the case have been made available to the public pursuant to Article 22, the applicant is obliged to consent, upon request, to give the other party access to the documents. If the patent application includes such a deposit of biological material as referred to in Article 8 a, the consent shall also encompass the right to obtain a sample of the material. The provisions of Article 22, sixth Paragraph, third and fourth sentences, and seventh and eighth Paragraphs apply when a party wants to obtain a sample on the basis of such a consent.

Anyone who indicates either by addressing himself or herself directly to another party, or in an advertisement, or by inscription on a product or its packaging, or in any other way, that a patent has been applied for, or granted, without at the same time indicating the number of the application or of the patent, shall be obliged to provide, upon request, the said information without delay. If it has not been expressly stated that a patent has been applied for, or granted, but the circumstances are likely to create the impression that such is the case, then, upon request, information shall be given without delay on whether a patent has been applied for or granted. (Act 2004:159).

Chapter 9. Liability and Obligation to Pay Compensation, etc.

Article 57. If anyone infringes the exclusive right conferred by a patent (patent infringement) and if the act is committed wilfully or with gross negligence, he or she

shall be sentenced to fines or imprisonment for not more than two years. Anyone who has violated an injunction issued under penalty of a fine pursuant to Article 57 b, may not be held liable under criminal law for the infringement covered by the injunction.

Attempts to commit acts implying violations referred to in the first Paragraph, and preparations for such acts, are punishable pursuant to Chapter 23 of the Criminal Code.

The Public Prosecutor may bring an action for offences referred to in the first or second Paragraph only if the injured party files a complaint and a prosecution is called for in the public interest. (Act 2005:289).

Article 57 a. Property in relation to which a violation has occurred pursuant to Article 57 shall be forfeited if this is not obviously unreasonable. Instead of the property itself its value may be declared forfeited. Also profits from such a violation shall be declared forfeited if this is not obviously unreasonable. The same applies to what someone received as a compensation for costs related to such a violation, or the value of what has been received, if the reception constitutes a violation pursuant to Article 57.

Property that has been used as an implement in connection with a violation under Article 57 may be declared forfeited, where this needed in order to prevent violations or where there are otherwise special reasons. The same applies to property that has been intended to be used as an implement in connection with a violation under Article 57, if the violation has been carried out or if the action has constituted a punishable attempt or a punishable preparation. Instead of the property itself, its value may be forfeited. (Act 2005:289).

Article 57 b. Upon a request by the patent proprietor or by a party that, on the basis of a license, has the right to exploit the invention, the Court may render an injunction prohibiting, under penalty of a fine, a party that commits, or contributes to, a patent infringement to continue that act.

If the plaintiff shows a probable cause that an act constituting an infringement, or a contribution thereto, takes place, and if it can reasonably be expected that the defendant, through the continuation of the act, or the contribution thereto, diminishes the value of the exclusive right in the patent, the Court may render an injunction, under penalty of a fine, for the time until the case has been finally adjudicated or otherwise is decided. No injunction may be rendered before the defendant has been given an opportunity to respond, unless a delay would entail a risk for damage.

The provisions in the first and second Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to infringements.

An injunction mentioned in the second Paragraph may be rendered only if the plaintiff deposits a security with the Court for the damage that may be caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may

liberate him from it. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the defendant has accepted it.

When the case is adjudicated, the Court shall decide whether a prohibition rendered pursuant to the second Paragraph shall continue to apply.

As regards appeals against decisions under the second or fourth Paragraph and as regards the proceedings in higher Courts, the provisions on appeal against decisions in Chapter 15 of the Code of Judicial procedure apply.

An action for the imposition of a fine may be brought by the party that has requested the injunction and shall be processed in accordance with the provisions in the Code of Judicial Procedure relating to actions in cases where no higher penalty than fines is prescribed. In connection with such an imposition, an action may be brought for a new injunction to be rendered under penalty of a fine. (Act 2005:289).

Article 57 c. If the applicant shows a probable cause that someone has committed a patent infringement, the Court may order, under penalty of a fine, one or several of the parties referred to in the second Paragraph to provide information to the applicant about the origin and distribution networks for the goods or services in respect of which the infringement has been committed (*order to provide information*). Such an order may be rendered upon a request by the proprietor of the patent or by a party that, on the basis of a license, has the right to exploit the invention. Such an order may be rendered only if it can be assumed that the information would facilitate the inquiry into an infringement relating to the goods or services.

The obligation to provide information relates to any party that

1. has committed, or contributed to, the infringement,
2. has on a commercial scale been exploiting goods that the infringement concerns,
3. has on a commercial scale been exploiting a service that the infringement concerns,
4. has on a commercial scale made available an electronic communication service or another service that has been used in connection with the infringement, or
5. has been indicated by a party referred to in items 2 to 4 as being involved in the production or distribution of the goods or the making available of the service that the infringement concerns.

The information on the origin or distribution network of goods or services may, in particular, include

1. the names and addresses of producers, distributors, suppliers and others who have previously held the goods or made available the service,
2. the names and addresses of intended wholesalers and retailers, and

3. information on how much has been produced, delivered, received or ordered and the price obtained for the goods or services.

The provisions in the first to third Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to infringements. (Act 2009:111).

Article 57 d. An order to provide information may be rendered only if the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or any other opposite interest.

The obligation to provide information pursuant to Article 57 c does not include information the revelation of which would disclose that the provider of the information or any person closely related to him or her as referred to in Chapter 36, Article 3, of the Code of Judicial Procedure has committed a criminal offence.

The Act (1998:204) on Personal Data contains provisions that limit the use that can be made of personal data received. (Act 2009:111).

Article 57 e. A decision on an order to provide information may be rendered by a Court referred to in Article 65.

If the request for an order to provide information is directed against a party that is the applicant's opposite party in a case related to an infringement, the provisions on court procedures for that case shall apply. Decisions on orders to provide information may be appealed separately.

If the request is directed against a party other than the one referred to in the second Paragraph, the provisions in the Act (1996:242) on Court Matters apply. For the purpose of consideration of the issue also an oral hearing may be held pursuant to Chapter 37 of the Code of Judicial Procedure. The Court may decide that each party shall bear its own litigation costs.

An action for the imposition of a fine may be brought by the party that has applied for the order and shall be processed in accordance with the provisions in the Code of Judicial Procedure on actions in criminal cases for which no higher penalty than fines is prescribed. In connection with such an action, an action may be brought for a new order to provide information. (Act 2009:111).

Article 57 f. Anyone who, pursuant to Article 57 c, second Paragraph, items 2 to 5, has been ordered to provide information pursuant to the first Paragraph of the same Article, has a right to a reasonable compensation for costs and inconvenience caused. The compensation shall be paid by the party that has applied for the order to provide information.

Anyone who makes available an electronic communication service and who has, pursuant to an order to provide information, delivered information referred to in

Chapter 6, Article 20, of the Act (2003:389) on Electronic Communications, shall send a written notice on this to the person whom the information concerns not earlier than one month and not later than three months from the delivery of the information. Costs for the notice shall be compensated in accordance with the first Paragraph. (Act 2009:111)

Article 57 g. Notwithstanding the prohibition in Article 21 of the Act (1998:204) on Personal Data, personal data on violations that constitute offences pursuant to Article 57 may be processed if this is necessary in order for a legal claim to be established, asserted or defended. (Act 2009:111).

Article 57 h. Upon a request by the plaintiff, the Court may, in infringement cases, order the party that has committed, or contributed to, the infringement to pay a pecuniary compensation for appropriate measures to disseminate information about the judgment in the case.

The provisions in the first Paragraph apply also to acts constituting attempts, and preparatory acts, relating to infringements. (Act 2009:111).

Article 58. Anyone who wilfully or with negligence commits a patent infringement shall pay a reasonable compensation for the exploitation of the invention and compensation for the further damage that the infringement has caused. When the amount of the compensation is decided, particular consideration shall be given to

1. lost profits,
2. profit that has been made by the party that committed the infringement,
3. damage caused to the reputation of the invention,
4. moral damage, and
5. the interest of the patent proprietor in that infringements are not committed.

Anyone who without intent or negligence commits a patent infringement shall pay a compensation for the exploitation of the invention if and to the extent that this is reasonable.

An action for compensation for a patent infringement may concern only the damage caused during the last five years before the action was brought. If no action is brought within that time period, the right to compensation is lost. (Act 2009:111).

Article 59. Upon a request by a party that has suffered a patent infringement, the Court may, in so far as is reasonable, decide that a patent-protected subject matter that has been manufactured without the consent of the patent proprietor shall be recalled from the channels of commerce, changed, taken into custody for the remainder of the patent term or be destroyed or that some other measure shall be taken in respect of it. The same applies to implements that have been, or have been intended to be, used in connection with the infringement.

Property referred to in the first Paragraph may be seized, if it may reasonably be assumed that a criminal offence pursuant to Article 57 has been committed. In

respect of such seizure, the provisions on seizure in criminal cases in general shall apply.

Notwithstanding the provisions in the first Paragraph, the Court may, if there are extraordinary reasons, pursuant to a request, decide that a proprietor of property referred to in the first Paragraph may have disposal of the property for the remainder of the patent term, or part of it, against a reasonable compensation and on other reasonable conditions. Such a decision may be rendered only if the proprietor has acted in good faith.

The provisions of the first to third Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to an infringement.

A decision on a measure pursuant to the first Paragraph must not imply that the party that has suffered a patent infringement shall have to pay a compensation to the party against which the measure is directed.

Any measures pursuant to the first Paragraph shall be paid for by the defendant where there are no specific reasons against it.

A decision referred to in this Article shall not be rendered, if forfeiture or a measure for the prevention of wrongful acts shall be decided pursuant to Article 57 a or the Criminal Code. (Act 2009:111).

Article 59 a. Where it can reasonably be assumed that someone has committed, or contributed to, an infringement, the Court may, for the purpose of preserving evidence relating to the infringement, order that an investigation be undertaken in respect of that party in order to search for objects or documents that can be assumed to be of importance for the inquiry into the infringement (infringement investigation).

An order for an infringement investigation may be rendered only where the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or to any other opposite interest.

The provisions in the first and second Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to an infringement. (Act 2007:516).

Article 59 b. An order for an infringement investigation is rendered by the Court referred to in Article 65.

A matter relating to an infringement investigation may be taken up for consideration only upon a request by the patent proprietor or anyone who, on the basis of a license, has a right to exploit the invention. Where legal proceedings have not yet been initiated, the request shall be submitted in writing.

The opposite party shall be given an opportunity to respond before an order for an investigation is rendered. Where a delay would entail a risk that objects or documents of importance for the inquiry into the infringement would be removed, destroyed or distorted, the Court may, however, immediately issue an order to be valid until otherwise decided.

In other respects, any matter relating to an infringement investigation which arises before legal proceedings have been initiated shall be processed in the same way as if the matter had arisen in the course of legal proceedings. (Act 2009:111).

Article 59 c. An order for an infringement investigation may be rendered only where the applicant deposits a security at the Court for the injury that may be caused to the opposite party. Where the applicant is not capable of depositing a security, the Court may liberate him from it. As regards the type of the security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court, unless the opposite party has accepted it.

As regards appeals against the decision by the Court relating to an infringement investigation proceeding and as regards the proceedings in higher Courts the provisions concerning appeal against decisions prescribed in Chapter 15 of the Code of Judicial Procedure apply. (Act 1998:1456).

Article 59 d. An order for an infringement investigation shall contain information about

1. the purpose of the investigation,
2. the objects and documents that may be searched for, and
3. the venues that may be searched.

Where necessary, the Court shall set also other conditions for the execution of the order. (Act 1998:1456).

Article 59 e. An order for an infringement investigation is immediately enforceable. If an application for its execution has not been filed within one month from the order, it becomes invalid.

If the applicant does not, within one month from the conclusion of the execution, file an action or initiate in some other manner a proceeding relating to the matter, any measure that has been undertaken in the context of the execution of the infringement investigation shall be invalidated to the extent possible. The same applies where an order for an infringement investigation is invalidated after the execution has been concluded. (Act 1998:1456).

Article 59 f. An order for an infringement investigation is executed by the Local Enforcement Authority in accordance with the conditions prescribed by the Court and in applying Chapters 1 to 3, Chapter 17, Articles 1 to 5, and Chapter 18, of the Enforcement Code. The applicant's opposite party shall be informed about the execution only if the order for an infringement investigation has been rendered after hearing the opposite party. The Authority has the right to take photographs and to

make video and sound recordings of such objects for which it is authorised to search. The Authority also has the right to make copies of, and extracts from, such documents for which it is authorised to search.

An infringement investigation must not concern written documents referred in Chapter 27, Article 2, of the Code of Judicial Procedure. (Act 2006:682).

Article 59 g. The opposite party has the right to summon an attorney when an order for infringement investigation is to be executed. The execution must not commence before the attorney has arrived. This does not, however, apply if

1. the investigation is thereby unnecessarily delayed, or
2. there is otherwise a risk that the purpose of the measure will not be achieved.

In the course of the execution, the Enforcement Authority is authorised to engage, as necessary, the services of an expert.

The Authority may permit the applicant or a representative of the applicant to attend the investigation in order to provide information. If such a permission is granted, the Authority shall see to it that the applicant or the representative is not being informed about the findings at the investigation more than can be justified by the execution. (Act 2006:682).

Article 59 h. Photographs and video and sound recordings of objects as well as copies of, and extracts from, documents shall be listed and shall be held available for the applicant and the opposite party. (Act 1996:1456).

Article 60. If someone commercially exploits an invention for which a patent is sought after the documents in the application file have been made available pursuant to Article 22, the provisions on patent infringement shall apply only to the extent that the application results in a patent. For the period before the patent was granted pursuant to Article 20, the patent protection extends, however, only to what is apparent both from the patent claims as worded when the application became publicly available and from the patent claims according to the patent. No punishment shall be imposed, forfeiture must not take place and compensation for damages resulting from the exploitation that took place before the patent was granted may be adjudicated only pursuant to Article 58, second Paragraph.

The provisions in Article 58, third Paragraph, shall not apply if the action for compensation was brought no later than one year after the term for opposition has expired or, if an opposition has been filed, no later than one year after the Patent Authority decided that the patent was to be maintained. (Act 2005:289).

Article 61. If a patent has been revoked or declared invalid by a decision or a judgment that has gained legal force, the Court may not adjudicate a punishment, decide on a seizure, issue a prohibition under penalty of a fine, impose a fine or a compensation or decide on any other measure pursuant to Articles 57 to 60.

If a patent infringement action is brought and the party against which the action is directed claims that the patent is invalid, the question of invalidity may be considered only after a court action to this effect has been initiated. The Court shall order the party asserting that the patent is invalid to bring such action within a certain period of time.

If a patent infringement action and a patent invalidity action are brought in the same court proceeding and if it would be suitable with regard to the inquiry that the issue of patent infringement be dealt with separately, a separate judgment may, at the request of one of the parties, be rendered on this issue. If a separate judgment is rendered, the Court may decide that the case relating to the invalidity shall be held in abeyance until the judgment has gained legal force. (Act 2009:111).

Article 62. Anyone who wilfully or with negligence which is not of a minor nature omits to carry out what is required by him under Article 56, shall be sentenced by fines.

Such a penalty shall also be imposed on a party that, in cases referred to in the same Article, wilfully or with negligence which is not of a minor nature provides false information, unless punishment for such acts is provided for in the Penal Code.

Anyone who wilfully or with negligence omits to carry out his obligations under Article 56 or, in cases referred to there, provides incorrect information shall pay a compensation for the injury caused. If the negligence is of a minor nature, the compensation may be adjusted accordingly.

Prosecution actions for offenses referred to in the first and second Paragraphs may be brought by the Public Prosecutor only if the injured party has filed a complaint and a prosecution is called for in the public interest. (Act 1991:296).

Article 63. A patent proprietor or a party that on the basis of a license is authorised to exploit the invention, may bring an action for a declaratory judgment to establish whether he enjoys protection against another party on the basis of the patent, if there is uncertainty in this respect and this is prejudicial to him.

A party that carries out or intends to carry out an activity may, on the same conditions, bring an action against the proprietor of the patent to establish whether a specific patent constitutes an obstacle to the said activity.

If it is alleged in the cases mentioned in the first Paragraph that the patent is invalid, the provisions of Article 61, second Paragraph, shall apply, *mutatis mutandis*.

Article 64. Anyone who desires to bring an action for the invalidation of a patent, for transfer of a patent or for the grant of a compulsory license shall report this to the Patent Authority and shall notify anyone who, according to the Register of Patents, holds a license in, or a pledge of, the patent. If a licensee desires to bring an action for a patent infringement or for an establishment under Article 63, first Paragraph, he shall notify the proprietor of the patent of this fact. The same applies if a proprietor of a pledge desires to bring an action for patent infringement.

The duty to provide information provided for in the first Paragraph shall be deemed to have been fulfilled when the information has been sent in a registered letter to the address recorded in the Register of Patents.

If it is not shown, when the action is brought, that a report or a notification has been made pursuant to the provisions in the first Paragraph, the plaintiff shall be given a respite to do so. If he does not avail himself of this respite, his action shall not be taken up for consideration. (Act 1987:1330).

Article 65. The District Court of Stockholm shall be have jurisdiction in litigations relating to

1. the proper title to an invention for which a patent is sought,
2. the invalidation or transfer of a patent
3. the grant of compulsory licenses, the establishment of new conditions for, or the revocation of, such licenses or rights referred to in Article 53, second Paragraph
4. patent infringements
5. establishments under Article 63, or
6. the adjudication of compensation under Article 78. (Act 1978:149).

Article 66. In cases referred to in Article 65, the District Court is competent to act with four members, two of whom shall be proficient in law and two have technological qualifications. More than three members proficient in law and three members with technological qualifications may not sit on the Court. One of the members proficient in law shall be the President of the Court.

In deciding cases without a main session as well as in proceedings that do not take place at a main session or at inspections on site, the District Court is, however, competent with one member proficient in law. In such cases no more than one member proficient in law and one technologically qualified member may sit on the Court. In this case the member proficient in law is the President of the Court. (Act 1986:233).

Article 67. In cases where technologically qualified members of the District Court have participated in the decision, the Court of Appeal is competent with three members proficient in law and two technologically qualified members. However, if three members proficient in law have participated in the decision of the District Court, at least four members proficient in law shall participate in the decisions of the Court of Appeal. More than five members proficient in law and three technologically qualified members may not sit on the Court.

If the Court of Appeal finds that the participation of technologically qualified members is evidently unnecessary, then the Court of Appeal is competent without such members.

In cases concerning review permits the Court of Appeal shall include three members proficient in law. One technologically qualified member may, however, serve on the Court instead of one of the members proficient in law.

Article 68. The Government or an Authority designated by the Government shall appoint at least twenty-five persons for three years at a time to serve as technologically qualified members of the District Court and of the Court of Appeal. During a three year period the Government may, where necessary, appoint additional persons for such service for the remainder of the period.

The President of the Court shall select, for each particular case, the members that shall sit on the Court from among the persons thus appointed, according to the desired technological qualifications and other requirements. A technologically qualified person who retires from office is obliged to serve at the continuation of the consideration of a case in which he has participated earlier.

Article 68 a. In a civil litigation pursuant to Article 65 relating to a European patent, the Court may, where a complete translation into Swedish of the patent document is not available at the Patent Authority, invite the patent proprietor or any other party that brings an action on the basis of a right that is derived from the patent proprietor to file such a translation. Where the party thus invited is the plaintiff in the case, the invitation shall be rendered under the sanction that the action may otherwise be dismissed. If the invited party is the defendant in the case, the invitation shall instead be rendered under the sanction that the Court will make a translation of the patent document at the expense of the party (*Act 2006:625*).

Article 69. In cases pursuant to Article 65, the Court shall obtain an opinion from the Court of Patent Appeals, if so is considered necessary. (*Act 1977:730*).

Article 70. A copy of the judgment or final decision in cases referred to in Article 65 shall be sent to the Patent Authority.

Chapter 10. Special Provisions.

Article 71. A patent proprietor who does not have his domicile in this country shall have a representative with residence here who is empowered to receive for him service of writs of summons, notifications and other documents in legal cases and matters concerning the patent, with the exception of writs of summons in criminal cases and orders for the party to appear personally before the Court. The representative shall be communicated to the Register of Patents and recorded there.

If the patent proprietor has not communicated a representative as referred to in the first Paragraph, the service may instead be carried out by sending the document to be served on him in a prepaid letter to the address recorded in the Register of Patents. If there is no complete address recorded in the Register, the service may be carried out by making the document available at the Patent Authority and by announcing the said service and the essential contents of the document in a publication determined by the

Government. The service shall be deemed to have been carried out when the actions mentioned above have been carried out.

The Government may, on condition of reciprocity, prescribe that the provisions in the first and second Paragraphs shall not apply in relation to a patent proprietor who is domiciled in a specified foreign State or who has a representative in that foreign State who is communicated to the Register of Patents in this country and who is empowered in the manner prescribed in the first Paragraph. (Act 1977:700).

Article 72. If the applicant or the patent proprietor has, despite having observed all due care required by the circumstances, suffered a loss of rights because he or she has not performed an act at the Patent Authority within the time limit prescribed in this Act or under the authority of this Act and then he or she performs the act within two months from the removal of the cause of the non-compliance, but at the latest within one year from the expiry of the time limit, the Patent Authority shall declare the act to have been performed in due time. If the applicant or the patent proprietor wishes to obtain such a declaration, he or she shall within the time limited prescribed above, file a request to that effect with the Patent Authority and pay a fee.

With respect to the time limit referred to in Article 6, a declaration pursuant to the first Paragraph may be made only if the application for which priority is claimed has been filed at the latest within two months from the expiry of the time limit and a request for a declaration has been made and the fee has been paid within the same period.

With respect to an international patent application that has been pursued in Sweden in accordance with Article 31, the first and second Paragraphs apply also if the applicant has suffered a loss of rights because he or she has not observed a time limit with regard to the Receiving Authority, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau. The act that has not been performed within the time limit shall in the cases referred to here be performed at the Patent Authority. (Act 2007:516).

Article 73. If, in cases referred to in Article 31 or 38, a document or a fee which has been sent by mail has not arrived at the Patent Authority within the prescribed time limit, but if the action intended by the mail has been completed within two months from the point in time when the applicant realized or should have realized that the time limit had been exceeded, but in no case later than one year after the expiration of the time limit, the Patent Authority shall declare that the act shall be deemed to have been completed within the proper time limit, provided that

1. the interruption of the postal services occurred on any of the ten days preceding the expiration of the time limit because of war, revolution, civil disorder, strike, natural disaster or other similar circumstance in the locality where the sender is staying or has his place of business, and the document or fee was mailed to the Patent Authority within five days after the resumption of the postal service, or

2. the document or fee was mailed to the Patent Authority by registered mail no later five days after the expiration of the time limit, but only if the mail was sent by air mail where this was possible or the sender had reason to assume that the mailing by surface mail should have arrived to the Patent Authority within two days from the date of the mailing.

If the applicant wishes to obtain a declaration pursuant to the first Paragraph, he shall file a written petition to that effect with the Patent Authority within the time limit prescribed there. (Act 1983:433).

Article 74. If a request under Article 72 or 73 has been approved and as a result thereof the processing of a patent application that has been dismissed or rejected after having been made available under Article 22 is resumed, or a patent that has lapsed is considered maintained, an announcement to that effect shall be made.

If anyone after the expiry of the time limit for restoration of the dismissed application or after the decision on rejection has gained legal force, or the patent has lapsed, but before the said announcement has been made, has begun in good faith to exploit the invention commercially in this country, he may, notwithstanding the patent, continue such exploitation while retaining its general character. Such a right to exploitation shall also be granted on corresponding conditions to anyone who has made substantial preparations for commercial exploitation of the invention in this country,

The right under the preceding Paragraph may only be transferred to others together with the business activity in which it originated or in which the exploitation was intended to take place.

Article 75. Final decisions by the Patent Authority, other than those referred to in Article 26 and decisions under Articles 42, 72 or 73, may be appealed to the Court of Patent Appeals within two months from the date of the decision.

A final decision by the Court of Patents Appeals may be appealed to the Supreme Administrative Court within two months from the date of the decision. In this case, the provisions in Articles 35 to 37 of the Code of Administrative Procedures (1971:291) on appeals against decisions by the Administrative Court of Appeal shall apply. Decisions by the Court of Patent Appeals shall indicate that a special review permit is required for consideration by the Supreme Administrative Court and the grounds on which such leave is granted. (Act 2010:1395).

Article 76. Fees under this Act are decided by the Government. As regards annual fees, the Government may prescribe that one or more of the first fee years shall be exempt from fees. (Act 1983:433).

Article 77. The Government or the Authority designated by the Government issues provisions concerning the implementation of this Act. Diaries kept by the Authority shall be available to the public to the extent prescribed by the Government.

The Government may issue provisions that documents in matters relating to patent applications may be delivered to an Authority in another country.

Furthermore, the Government may also issue provisions to the effect

1. that the examination of patent applications may, upon request by the Patent Authority, be carried out at an Authority in another State or at an international institution, and
2. that a party that applies for a patent on an invention for which he or she has applied for a patent in another State, shall be obliged to report what the Patent Authority in that State has communicated to him or her concerning the examination of the patentability of the invention.

Provisions concerning the obligation to provide reports pursuant to the third Paragraph, item 2, may, however, not be issued in respect of a patent application referred to in Chapter 3, if it has been the subject of an international preliminary examination and a report concerning that examination has been filed with the Patent Authority. (Act 2007:516).

Article 78. If the country is at war or in danger of war, the Government, when called for in the public interest, may prescribe that the right to a specific invention shall be surrendered to the State or to another party designated by the Government. A reasonable compensation shall be paid for the right to the invention thus surrendered. If no agreement on the compensation can be reached with the party entitled to compensation, the Court shall fix the compensation.

If a party other than the State has availed itself of the right to an invention pursuant to the first Paragraph and if the party does not fulfil its obligations with regard to compensation, the State shall be obliged to pay the said compensation as soon as this is requested by the party entitled to the compensation.

Article 79. Special provisions apply to inventions of importance for the defence of the country.

Chapter 11. European Patents

Article 80. A European patent is a patent that has been granted by the European Patent Office under the European Patent Convention, done at Munich on October 5, 1973. A European patent application is a patent application filed under the said Convention.

An application for a European patent shall be filed with the European Patent Office. Such an application may also be filed with the Patent Authority to be transmitted by it to the European Patent Office. An application referred to in Article 76 of the said Convention (European divisional application) shall, however, always be filed with the European Patent Office.

The provisions of Articles 81 to 93 apply to a European patent for Sweden and a European patent application designating Sweden.

Article 81. A European patent is granted when the European Patent Office has announced its decision to approve of the patent application. The European patent has the same legal effect as a patent granted in this country and is also otherwise subject to the same conditions as such a patent, unless otherwise provided in this Chapter.

Article 82. A European patent has effect in Sweden only if the applicant, within three months from the date when the European Patent Office has announced its decision to grant the patent, has filed with the Patent Authority a translation, in the manner prescribed in the third Paragraph, of the text on the basis of which the patent has been granted by the European Patent Office and within the same period has paid a fee for the publication. If the European Patent Office decides that a European patent shall be maintained in an amended wording or be limited, what has been said now applies also in respect of the amended text.

The translation shall be made available to anyone. It shall, however, not be made available before the European Patent Office has published the European patent application.

The patent claims shall always be filed in a translation into Swedish. If the patent has been granted in German or French, the description shall be filed in translation into Swedish or English.

If the translation has been filed and the fee has been paid within the time prescribed and the European Patent Office has announced its decision to grant the patent or decided that the European Patent shall be maintained in an amended wording or be limited, this fact shall be announced by the Patent Authority. (*Act 2007:518*).

Article 83. If the patent proprietor has not, within the prescribed time limit, completed the act referred to in Article 82, first Paragraph, the provisions of Article 72, first Paragraph, concerning patent applicants shall apply *mutatis mutandis*. If it is declared, pursuant to Article 72, that such an act shall be deemed to have been completed within the proper time limit, the Patent Authority shall announce this fact.

If someone has, after the time limit for completion of the acts under Article 82, first Paragraph, has expired but before the announcement has been passed, has commenced in good faith to exploit the invention commercially in this country or has made substantial preparations for it, he shall enjoy the rights provided for in Article 74, second and third Paragraphs. (*Act 2006:625*).

Article 84. (*Repealed through Act 1993:1406*).

Article 85. If the European Patent Office has decided to limit or, wholly or in part, invalidate a European patent, this shall have the same effect as if the patent had been limited or declared invalid to the corresponding extent in Sweden. In order for a decision on limitation to have effect in Sweden, the requirements pursuant to Article 82 have to be fulfilled. The Patent Authority shall announce the decision.

Article 86. Annual fees for European patents shall be paid to the Patent Authority for each fee year beginning after the year in which the European Patent Office announced its decision to approve the patent application.

If the annual fee for a European patent is not paid pursuant to the provisions in the first Paragraph and in Articles 41 and 42, Article 51 shall apply *mutatis mutandis*. The first annual fee for a European patent is not, however, due for payment before two months have passed from the date on which the patent was granted. (Act 1983:433).

Article 87. A European patent application for which the European Patent Office has accorded a filing date, shall in Sweden have the same effect as a Swedish patent application with the same filing date. If the application according to the European Patent Convention enjoys priority from an earlier date than the filing date, such priority shall be taken into consideration.

For the purposes of the application of Article 2, second Paragraph, the publication of a European patent application pursuant to Article 93 of the European Patent Convention shall be equivalent to the application being made available to the public pursuant to Article 22. This applies also to any publication referred to in Articles 153.3 or 153.4 of the Convention if this publication by the European Patent Office is considered as equivalent to a publication pursuant to Article 93. (Act 2007:516).

Article 88. If a European patent application has been published under the European Patent Convention and a translation into Swedish of the patent claims as worded when published has been filed with the Patent Authority, the Patent Authority shall make an announcement to this effect and make the translation available to anyone.

If someone commercially exploits an invention for which patent protection is sought in a European patent application after the announcement pursuant to the first Paragraph has been effected, the provisions concerning patent infringement shall apply *mutatis mutandis* if the application results in a patent for Sweden. In such a case, the patent protection shall, however, extend only to that revealed in both the patent claims as worded when published and the claims according to the patent. Punishment shall not be imposed and compensation for damages may only be determined pursuant to Article 58, second Paragraph.

The provisions of Article 58, third Paragraph, shall not apply if the action for compensation is initiated within one year after the period for opposition against the

European patent expired, or, if an opposition has been filed, within one year after the decision by the European Patent Office to maintain the patent. (Act 1980:105).

Article 89. If a European patent application or a request that such an application shall designate Sweden has been withdrawn or if under the –European Patent Convention such a withdrawal shall be deemed to have been made, and if the processing of the application has not been resumed pursuant to article 121 of the Convention, this shall have the same effect as a withdrawal of a patent application at the Patent Authority.

If a European patent application has been rejected, this shall have the same effect as a rejection of a patent application in this country.

Article 90. If the translation of a document referred to in Article 82 or 88 does not correspond with the wording of the document of the language of the proceedings before the European Patent Office, the patent protection shall only extend to what is evident from both texts.

In litigations concerning revocation, the text in the language of the proceedings shall constitute the sole authentic text.

Article 91. If the applicant or the proprietor of the patent files a correction of a translation referred to in Article 82 with the Patent Authority and pays a fee for the publication of the corrected translation, this shall apply instead of the earlier one. A corrected translation shall be made available to anyone, if the original translation is made available. If the correction has been received and the fee been paid and if the original translation has been made available to anyone, the Authority shall issue an announcement also of the correction.

If the applicant files a correction of a translation as referred to in Article 88 and pays a fee for the publication of the corrected translation, the Patent Authority shall issue an announcement about this fact and make the corrected translation available to anyone. After the announcement has been made the corrected translation shall apply instead of the earlier one.

If anyone has, before a corrected translation has become valid, in good faith commenced the exploitation of the invention commercially in Sweden in a manner that, according to the earlier translation, did not constitute an infringement of the right of the applicant or the patent proprietor, or has made substantial preparations therefore, he or she shall enjoy the right specified in Article 74, second and third Paragraphs. (Act 2007:518).

Article 92. If the European Patent Office has decided to limit or to revoke, fully or in part, a European patent or if such circumstances have occurred as regards a European patent application as are referred to in Article 89 , but the European Patent Office declares that, under the European Patent Convention, the patent

proprietor or the applicant shall be granted *restitutio in integrum*, this shall apply also in Sweden.

If anyone, after the decision was rendered or the circumstances occurred, but before the European Patent Office issued an announcement concerning the declaration referred to in the first Paragraph, has, in good faith, commenced the exploitation of the invention commercially in Sweden, or made substantial preparations therefore, he or she shall enjoy the right specified in Article 74, second and third Paragraphs.

If the European Patent Office has set aside a decision pursuant to Article 112 a of the European Patent Convention, the decision by the European Patent Office on the setting aside shall apply also in Sweden. If a European patent has become valid in Sweden after the European Patent Office has decided to set aside a decision, the provisions of the second Paragraph shall apply, if the exploitation had commenced or preparations were made before the decision on the setting aside was announced. The same applies to the extent of the patent protection for a European patent with validity in Sweden that has been extended after the decision by the European Patent Office on the setting aside of a decision. (Act 2007:516).

Article 93. If a European patent application that has been filed with a national Patent Authority is deemed to be withdrawn because the European Patent Office did not receive it within the prescribed time limit, the Patent Authority shall, pursuant to a request by the applicant, take up the application as converted into an application for a Swedish patent, provided

1. that the request is filed with the National Authority that received the patent application within three months from the point in time when the applicant was notified that the application was considered withdrawn and, furthermore, it is received by the Patent Authority within twenty months from the date of filing of the application or, if priority is claimed, the date from which priority is claimed.
2. that the applicant pays, within the time period determined by the Government, the prescribed application fee and files a translation into Swedish of the patent application.

If the patent application fulfils the requirements as to the form of the application prescribed in the European Patent Convention and its Implementing Regulations, it shall be accepted in this respect.

Chapter 12. Pledging.

Article 94. Patents that have been granted or that have effect in this country may be pledged pursuant to the provisions in this Chapter.

Pledges may also apply to

1. a Swedish patent application,

2. an international patent application that has been pursued under Article 31 or which has been taken up for processing in accordance with Article 33, third Paragraph, or Article 38, or
3. a European patent application for which a translation in accordance with Article 88 has been received by the Patent Authority or which has been converted under Article 93.

A pledge of a patent application also extends to a part of the application that becomes the subject of a division or a breaking out. (Act 1987:1330).

Article 95. A pledge of a patent or a patent application comes into being by registration of a written contract pledging the property. The application for registration shall be filed with the Patent Authority.

If a registered pledge has been transferred to another party, this fact shall, upon request, be recorded in the Register of Patents or the Diary of Patent Applications.

If a pledge has been granted to several parties individually, precedence shall be given to the grant for which the application for registration was first received by the Patent Authority, unless otherwise agreed.

If applications for registration of several pledges are filed on the same day, precedence shall be given to them in accordance with the chronological order in which they were made, unless otherwise agreed. If the contracts are simultaneous or it can not be determined in which chronological order they were made, they shall have the same right. (Act 1987:1330).

Article 96. An application for registration in accordance with Article 95 shall be made by the party having the right to the patent or the patent application or by the party to whom a pledge has been granted. The applicant shall prove the right of the pledger to the patent or the patent application.

The proprietor of the patent recorded in the Register of Patents shall be deemed to have the right to the patent unless the case shows otherwise. If the application for registration relates to a pledge of a patent application, the inventor or his assignee who is registered at the Patent Authority shall be deemed to have the right to the patent application, unless the case shows otherwise.

If, when the application for registration is filed, the pledger does not have the pledged property at his disposal due to distraint, bankruptcy, legal incapacity, ensuring of payment, sequestration or for some other reason, the application must not be approved. (Act 1987:1330).

Article 97. A contract in which a patent is pledged can be registered when the patent has been granted or, if the contract relates to a European patent, when it has come into effect in this country pursuant to Article 82.

A contract in which a patent application is pledged may be registered when the patent application has been recorded in the Diary of Patent Applications at the Patent Authority, or, if the contract related to a European patent application, when an announcement under Article 88 has been made.

If a pledged patent application results in the granting of a patent, the patent shall thereafter constitute the pledged property. (Act 1987:1330).

Article 98. Even though a registration has been effected, the right to the pledged property only applies if the contract was concluded by a party that is the proper owner of the property and is entitled to dispose thereof and if the contract is not invalid for any other reason. (Act 1987:1330).

Article 99. The pledge lapses if the patent or the patent application has been transferred to another party or otherwise is not valid due to the provisions in this Act. (Act 1987:1330).

Article 100. The registration shall be removed from the files if the pledge, through a judgment that has gained legal force has been declared invalid or if the pledge has lapsed or otherwise has ceased to be valid. (Act 1987:1330).

Article 101. The pledging of a patent or a patent application has effect from the time of the application for registration according to Article 95 against anyone else who later acquires ownership of, or any other right in, the property.

A licence agreement is valid against the pledgee if the agreement was concluded before the application for registration of the pledge contract. (Act 1987:1330).

Article 102. The provisions in any other laws concerning pledges upon distraint or upon bankruptcy also apply to pledges of patents or patent applications. The receipt by the Patent Authority of an application for registration under Article 95 has the same legal effects as when a pledgee takes possession of an object.

If a pledged patent or a patent application is being sold upon distraint or bankruptcy, licence agreements referred to in Article 101, second Paragraph, shall remain in force. (Act 1987:1330).

Article 103. The pledgee may sell the pledge and obtain his claim from the proceeds only if he has previously informed the debtor and other known parties about the sale and they have been given sufficient opportunity to look after their interests.

After a sale pursuant to this Article, license agreements as referred to in Article 101, second Paragraph, remain in force. (Act 1987:1330).

Article 104. Anyone who applies for registration pursuant to this Chapter shall pay a fee. The Government determines the amount of the fee. (Act 1987:1330).

Chapter 13. Supplementary Protection.

Article 105. Anyone who applies for supplementary protection or extension of the period for a supplementary protection in accordance with Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products or for supplementary protection in accordance with Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 June 1996 concerning the creation of a supplementary protection certificate for plant protection products shall pay a fixed application fee. *(Act 2007:242).*

Also an annual fee shall be paid for the supplementary protection. The fee year is computed from the date when the protection commenced to be valid and thereafter from the corresponding date. *(Act 2007:242).*

Article 106. The provisions in Chapter 9 on liability shall also apply to supplementary protection. *(Act 1994:1511)*

Articles 106 to 114. *(Repealed by Act 1994:1511).*

Entry Into Force and Transitional Provisions.

(Not translated).