

## ***PATENTS DECREE.***

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The Finnish patents act and patents decree have been amended in July 15, 2000 mainly due to the Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions. Some other minor amendments were also made.

(Unofficial translation)

PATENTS DECREE Nº. 669 of September 26, 1980, as amended by Decrees No. 505 of June 14, 1985, No. 583 of June 26, 1992, No. 71 of January 21, 1994, No. 595 of June 28, 1994, No. 104 of February 15, 1996, No. 246 of April 1, 1997 and No. 674 of July 13, 2000

### **Patent Application and Record of Applications ➡**

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

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

The provisions in this Decree concerning patent applications shall only apply, unless otherwise specified, to:

- (1) Finnish patent applications;
- (2) international patent applications pursued in Finland under Section 31 of the Patents Act or accepted for examination under Section 38 of that Act; and
- (3) European patent applications converted into national applications under Section 70 s of the Patents Act. (15.2.1996/104)

Section 2 (13.7.2000/674) Finnish patent applications shall consist of an application document and accompanying documents.

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

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

The following documents shall accompany the application document:

- (1) a description of the invention together with the drawings, if any, needed to understand the invention, claims and an abstract;
- (2) if the applicant is not the inventor or has not made the invention on his own, a statement establishing the applicant's title to the invention.

The representative appointed by the applicant has to prove his authorisation, unless the representative has been given authorisation in the application document.

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

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

language other than Finnish or Swedish.

The Patent Office may take up an application for processing before a translation thereof into one of the languages laid down by the first paragraph has been submitted. The translation has to be submitted before the application under Section 22 of the Patents Act becomes available to the public. The Patent Office shall specify the prerequisites under which the application is taken up for processing before the translation has been submitted. (21.3.1997/246)

Section 4 Regulations on further requirements concerning the form of the documents and the number of copies to be filed with the Patent Office by the applicant shall be given by the Patent Office.

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

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

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

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

Section 7 The Patent Office shall keep a record of patent applications filed. The record shall be accessible to the public.

The following particulars shall be entered in the record for each application:

- (1) the serial number in the record of the application and the classes in which the application has been classified;
- (2) the name of the examiner processing the application;
- (3) the name, domicile and address of the applicant;
- (4) if the applicant has appointed a representative, the name, domicile and address of the representative;
- (5) the name and address of the inventor;
- (6) the title of the invention;
- (7) a statement as to whether the application is a Finnish patent application, an international patent application or a European patent application which has been converted into a

national application; (15.2.1996/104)

(8) if the application is a Finnish patent application, the filing date and the effective date where different from the filing date;

(9) if the application is an international patent application, the international filing date and the date on which the application was pursued under Section 31 of the Patents Act or was filed under Section 38 of that Act;

(9a) if the application has been converted from a European patent application into a national application, the filing date in accordance with the European Patent Convention (Finnish Treaty Series 8/96) and the date on which the application was received by the Patent Office for conversion; (15.2.1996/104)

(10) if the priority of an earlier application is claimed, the country where the earlier application given as the basis for the priority was filed, the filing date of that application and its serial number;

(11) if the application results from division or separation, the serial number of the parent application;

(12) if a new application results from the division or separation of the application, the serial number of the application that has been divided or separated out;

(13) if the application has been made available to the public under the third paragraph of Section 22 of the Patents Act, the date on which it became available;

(14) where the application is an international application, the international application number;

(14a) if the application has been converted from a European patent application into a national application, the application number of the European patent application; (15.2.1996/104)

(15) the documents filed and fees paid in respect of the application;

(16) decisions taken in respect of the application.

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

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

The Patent Office shall further prepare a weekly list of published European patent applications on the basis of the information received by the Office from the European Patent Office. The list shall contain for each application the data listed in Article 128(5) of the European Patent Convention. (15.2.1996/104)

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

(15.2.1996/104)

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

### **Priority** ➡

Section 10 To enjoy priority under Section 6 of the Patents Act, the applicant must claim priority in writing within three months of the date on which the application was filed or is deemed to have been filed, simultaneously stating where and when the application given as a basis for the priority was filed and, as soon as possible, its serial number. In the case of an international application, the priority claim shall be made in the application itself, stating the place and date the application given as the basis for priority was filed and, in the case of an international application, at least one country designated in such application. In such case, the serial number of the application given as the basis for priority shall be communicated to the receiving Office for the international application or to the International Bureau of the World Intellectual Property Organization within 16 months from the priority date which is claimed. (14.6.1985/505)

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

Section 11 An applicant who has claimed priority shall, within 16 months of the date for which priority is claimed, file with the Patent Office a certificate issued by the authority with which the application for which priority is claimed was filed, stating the filing date of the priority application and the applicant's name, and also a copy of the application certified by that same authority. The copy shall be filed in the form prescribed by the Patent Office. However, for an international application, the certificate shall be filed only after the Patent Office has issued the corresponding official action. For such application the priority document may also be filed in accordance with Rule 17.1 of the Regulations under the Patent Cooperation Treaty with the International Bureau referred to in Section 8 or with the authority that received the application, or a request may be made to such latter authority to forward the priority document to the International Bureau.

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

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

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

If the person who filed the first application or his successor in title has filed a subsequent application with the same patent authority, relating to the same invention, the subsequent application may be cited as a basis for priority, provided that at the time of filing of the later application the earlier application was withdrawn, dismissed, or rejected without having become available to the public and without there being any rights subsisting, and had not served as a basis for priority. Where priority has been obtained on the basis of the

subsequent application, the prior application may no longer serve as a basis for claiming priority.

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

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

## Claims ➡

(14.6.1985/505)

Section 14 The claims shall contain:

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

Each claim may relate to one invention only.

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

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

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

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

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

Section 16 (26.6.1992/583) Where an application contains several inventions they shall be interdependent. Inventions shall be deemed to be interdependent, if there is a technical connection between all of them in that the inventions have, in whole or in part, the same or similar special technical characteristics. The term special technical characteristics shall mean the technical characteristics contributed by each single invention going, in considering the invention as a whole, beyond the state of the art.

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

## **Description** ➡

(14.6.1985/505)

Section 17 The description may only contain subject matter that assists in understanding the invention. Where a newly-coined word or a technical term that is not generally accepted has to be used, such term shall be explained. The designations and units of measurement may not depart from those in general use in the Nordic countries.

Where the application includes a deposit of a biological material under Section 8a of the Patents Act, the applicant shall as an appendix to the application give all relevant information regarding the characteristics of the biological material that is available to him.

Section 17 a (14.6.1985/505) Deposits under the first paragraph of Section 8 a of the Patents Act shall be made with an institution that is an international depositary authority under the Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (the Budapest Treaty) done at Budapest on April 28, 1977, or with another depositary authority recognized by the European Patent Office. (15.2.1996/104)

Deposits shall be made in accordance with the Budapest Treaty.

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

Section 17 b Where biological material has been deposited, the applicant shall inform the Patent Office in writing, within 16 months of the filing date of the application or, where priority is claimed, of the date of the claimed priority, of the institution with which the deposit has been made and the access code given to the deposit by that institution. For international applications the information may be submitted, within the same time limits, to the International Bureau referred to in the second paragraph of Section 8.

Where the applicant requests that the application documents be made available to the public earlier than provided for in the first and second paragraphs of Section 22 of the Patents Act, the information referred to in the first paragraph shall be submitted, at the latest, together with the request. Where the applicant requests early publication of an international application under Article 21(2)(b) of the Patent Cooperation Treaty, the information shall be submitted, at the latest, together with the request for publication.

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

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

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

The new deposit shall be made within three months of the date the depositor received notification from the international depositary authority that samples of the previous deposit



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

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

### **Abstract** ➡

(14.6.1985/505)

Section 18 The abstract of a Finnish application shall be based on the description and claims as set out in the documents that constitute the basic documents pursuant to the first paragraph of Section 21 or the first paragraph of Section 24. The abstract shall contain the title of the invention and shall be drafted with sufficient clarity to disclose the technical problem to which the invention relates, the principles of the solution provided by the invention and the primary field in which the invention is to be used. The final wording of the abstract shall, where possible, be determined before the application is made available to the public under the second paragraph of Section 22 of the Patents Act.

Where an international application or a European patent application converted into a national application contains an abstract confirmed by the International Searching Authority or the European Patent Office, the wording of that abstract shall be accepted. Where this is not the case, the Patent Office shall also confirm the abstract in such application. In the latter case, the provisions of the first paragraph shall be applicable. (15.2.1996/104)

### **Amendments to Applications** ➡

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

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

For international applications, no novelty search report shall be issued before the period of time laid down in Section 52b has expired, unless the applicant agrees thereto. (14.6.1985/505)

An applicant may make amendments or additions to the description and drawings only



where they are necessary according to Section 8 of the Patents Act. Such amendments or additions may not make a claim encompass matter other than that which has a counterpart in the basic documents.

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

Section 21 For the purposes of this Decree, the basic document for a Finnish patent application, a patent application to be taken up for processing under Section 38 of the Patents Act and a European patent application converted into a national application shall be deemed to consist of the Finnish or Swedish language description, with drawings, if any, and the claims contained in the application as filed or as deemed to have been filed. If those documents were not included in the application at that time, the first Finnish or Swedish language description and claims subsequently filed shall be deemed to constitute the basic document if the content of those documents clearly corresponds to the content of the documents held by the Patent Office at that time. (15.2.1996/104)

The basic document for an international application pursued under Section 31 of the Patents Act shall be deemed to consist of:

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

(2) where the application was drafted in Finnish or Swedish, the copy of the description, drawings and claims filed under Section 31 of the Patents Act. (14.6.1985/505)

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

### **Division and Separation ➡**

Section 22 (21.3.1997/246) If more than one invention has been disclosed in the basic documents, the applicant may divide the application into more than one application. Division may only be made before a notice under the first paragraph of Section 19 of the Patents Act has been given. In such case, a new application relating to an invention divided from the original application (parent application) shall, at the applicant's request, be deemed to have been filed at the same time as the parent application.

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

Separation may only be made before a notice under the first paragraph of Section 19 of the Patents Act has been given. In an application made by separation, protection can only be claimed for subject matter that was disclosed in the documents of the parent application when the new document was filed. (21.3.1997/246)

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

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

### **Availability to the Public ➡**

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

The announcement under the fourth paragraph of Section 22 of the Patents Act shall state the serial number and classification of the application, its filing date, the effective date, if different from the filing date, the title of the invention and the name and address of the applicant and of the inventor. Where priority has been claimed, the announcement shall also state where the relevant prior application was filed, together with the filing date and serial number of such prior application. If the application includes a deposit of a biological material, this shall be stated in the announcement. If the applicant has requested under the seventh paragraph of Section 22 of the Patents Act that samples of the biological material be issued only to a special expert, this fact shall also be stated in the announcement. (14.6.1985/505)

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

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

A person wishing to obtain a sample shall give an undertaking to the applicant or the proprietor of the patent to the effect that no sample containing the deposited biological material or any material obtained from it will be used for other than experimental purposes and that no sample containing the deposited biological material or any material obtained from it will be made available to anyone else before a final decision has been given on the application or, if a patent has been granted, before the patent has expired, unless the applicant or the proprietor of the patent explicitly waives this undertaking.

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

The undertaking shall be attached to the request.

Section 25 b A request made under the seventh paragraph of Section 22 of the Patents Act that samples shall only be issued to a special expert must be made within 16 months of the

filing date of the application or, where priority is claimed, of the claimed priority date.

The Patent Office shall draw up a list of those persons who have stated their willingness to assume assignments as experts and who are suitable for such a task. A decision on the persons chosen for inclusion in the list of experts shall be announced as prescribed in Section 43.

If a sample may be issued only to a special expert, the request for the sample shall state the person to be called upon as an expert. The request shall be accompanied by a written undertaking from the expert to the applicant to the effect that the sample will not be used for other than experimental purposes and will not be made available to anyone else before a patent granted on the invention has expired or before 20 years have lapsed from the filing date of the application if a final decision not resulting in the grant of a patent has been taken on the application. This undertaking shall also apply to biological material obtained from the sample and to biological material derived from the sample which has retained those characteristics of the deposited biological material that are essential for carrying out the invention.

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

Section 25 c Notwithstanding the provisions laid down in Sections 25a and 25b of this Decree in respect of undertakings to be given to the applicant for or proprietor of a patent, a derived biological material may be deposited for the purposes of a new patent application.

Section 25 d (14.6.1985/505) If a request has been made for a sample and neither the Patents Act nor this Decree preclude the furnishing of a sample, the Patent Office shall issue a certificate to that effect. The Patent Office shall forward the request for the sample and the certificate to the institution where the deposit is kept. The Patent Office shall at the same time forward to the applicant or the proprietor of the patent a copy of the request and the certificate.

If the Patent Office decides that a certificate as referred to in the first paragraph cannot be issued, it shall give a notice of that decision. The person who has requested the sample may lodge an appeal against such decision with the Board of Appeal of the Patent Office within 60 days of the date on which the decision was communicated to the appellant, not counting the date of communication. There shall be no appeal from the decision of the Board of Appeal. (21.3.1997/246)

### **Processing of Patent Applications ➡**

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

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

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

Section 26 a (21.3.1997/246) If, during the examination of an application, a communication which is of importance for the examination of the application is filed with the Patent Office, the applicant shall be notified thereof. If the communication does not concern better title to the invention, the Patent Office shall notify the party that submitted the communication of the possibility of lodging an opposition if a patent is granted.

Section 27 Where necessary for the examination of a patent application, the Patent Office may consult experts who are not on the staff of the Patent Office.

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

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

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

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

Section 29 a If the Patent Office considers that a patent may be granted, the Office shall, before giving a notice under the first paragraph of Section 19 of the Patents Act, send the applicant the documents that show the text in which it intends to grant the patent. The Patent Office may in such case under Section 15 of the Patents Act invite the applicant to file his comments and return the documents to the Office within a specified time limit.

Section 30 (21.3.1997/246) The Patent Office shall issue regulations on time limits and extensions of time limits. The grant of a patent may only be deferred, if the grant would take place before the application has become available to the public under Section 22 of the Patents Act. In such case, the grant of a patent may at the applicant's request be deferred until the time the application becomes available to the public under the above-mentioned Section of the Act.

## **Grant of a Patent ➡**

(21.3.1997/246)

Section 31 Printing of a published specification pursuant to Section 21 of the Patents Act shall begin as soon as possible after the applicant has paid the printing fee under the third paragraph of Section 19 of the Patents Act.

The published specification shall state:

- (1) the serial number of the application in the record of applications and the registration number of the patent and the classes in which the patent is classified;
- (2) the name and address of the proprietor of the patent;
- (3) the name, domicile and address of the representative appointed by the applicant, if any;
- (4) the name and address of the inventor;
- (5) the title of the invention;
- (6) whether the patent is based on a Finnish application, an international application or a European patent application which has been converted into a national application;
- (7) if the patent is based on a Finnish application, the filing date of the application and the date on which the patent term begins if not identical with the filing date of the application;
- (8) if the patent is based on an international application, the international filing date and the date on which the application was pursued under Section 31 of the Patents Act or on which the application under the third paragraph of Section 38 of the same Act is deemed to have been filed, and the number of the international application;
- (9) if the patent is based on a European patent application which has been converted into a national application, the filing date under the European Patent Convention and the date the application was received by the Patent Office for conversion, and the application number of the European application;
- (10) if priority is claimed, where the earlier application given as a basis for priority has been filed and the filing date and serial number of such application;
- (11) if the application results from division or separation, the serial number of the parent application;
- (12) if the application includes a deposit of a biological material, an indication of the institution where the deposit is kept and the access code given to the deposit by the said institute; (13.7.2000/674)
- (13) the date on which the application documents were made available to the public;
- (14) the date on which the patent was granted;
- (15) the publications cited.

Section 32 (21.3.1997/246) The announcement of the grant of a patent shall contain the information that is to be given in the published specification under Section 31, with the exception of the publications cited.

## **Opposition** ➡

(21.3.1997/246)

Section 33 An opposition under Section 24 of the Patents Act shall state the following particulars:

- 1) the name and address of the opponent;
- 2) the registration number of the patent against which the opposition is lodged, the name of the proprietor of the patent and the title of the invention;
- 3) whether the opponent demands that the patent be revoked or that patent protection be restricted to some extent;
- 4) which of the circumstances stated in the first paragraph of Section 25 of the Patents Act serve as grounds on which the opposition is filed and what other circumstances can be presented as grounds for the opposition; and
- 5) if the opponent has appointed a representative, the name, domicile and address of the representative.

The opposition and any subsequent communications, together with attachments, from the proprietor of the patent or the opponent shall be filed in the number of copies required by the Patent Office.

Where the opponent has appointed a representative, the representative shall prove his authorisation.

Section 34 (21.3.1997/246) If the opposition has not been made in the manner prescribed in the first paragraph of Section 24 of the Patents Act, the opposition will not be admitted. Neither will the opposition be admitted if the patent against which the opposition is filed is not identified in the documents submitted to the Patent Office within the time limit reserved for lodging an opposition, or if it cannot be established who filed the opposition, or if the particulars stated in item 4 of the first paragraph of Section 33 are not given in the documents.

If other provisions concerning oppositions are not complied with on lodging an opposition, the Patent Office shall invite the opponent to correct the defects within a prescribed time limit. Failure to do so in the prescribed time limit shall result in the opposition being rejected as inadmissible.

Section 35 (21.3.1997/246) Copies of all communications filed by the opponent shall be transmitted to the proprietor of the patent.

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

Section 36 Repealed. (21.3.1997/246)

Section 37 (21.3.1997/246) The Patent Office shall issue more specific regulations on

applications and oppositions and their processing.

### **Patent Register** ➡

Section 37 a (15.2.1996/104) The Patent Register shall contain information on patents granted by the Patent Office and on European patents having legal effect in Finland.

Section 38 (21.3.1997/246) Once a patent has been granted in Finland, it shall be recorded in the Patent Register. In that connection, the particulars that under Section 31 shall be indicated in the patent specification, with the exception of the publications cited, shall be recorded in the Patent Register.

Section 38 a (15.2.1996/104) A European patent shall be recorded in the Register once the European Patent Office has published an announcement of the grant of the patent and the applicant has filed a translation and paid a fee pursuant to the first paragraph of Section 70 h of the Patents Act.

The following particulars shall be recorded in the Register in that connection:

- (1) the date on which the European Patent Office has announced its decision to grant the patent;
- (2) the date on which the translation and the payment of the fee under the first paragraph of Section 70 h of the Patents Act were received and the date on which the announcement of the translation was published;
- (3) the date on which the patent term begins; and
- (4) the particulars corresponding to the ones specified in subparagraphs 1 to 5, 10 and 13 of the second paragraph of Section 31. (21.3.1997/246)

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

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

Section 38 b (21.3.1997/246) Once an opposition has been lodged against a granted patent, this fact shall be recorded in the Patent Register. The entry shall contain the following particulars:

- 1) the name and address of the opponent;
- 2) if the opponent has appointed a representative, the name, domicile and address of the representative; and
- 3) the date of lodging the opposition.



A final decision taken in respect of an opposition shall be recorded in the Patent Register. In that connection, the date of the decision and its principal contents are recorded in the Register.

Section 39 (21.3.1997/246) The announcement under the sixth paragraph of Section 25 of the Patents Act concerning a decision taken in respect of an opposition shall give the serial number and classification of the patent, the title of the invention, the name of the proprietor of the patent and the date of the decision.

Section 40 Payment of a renewal fee or respite granted for payment of a renewal fee shall be recorded in the Register.

If a patent has lapsed under Section 51 of the Patents Act, the date as from which the patent ceased to be valid shall be recorded in the Register.

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

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

When a copy of a court decision has been sent to the Patent Office in accordance with Section 70 of the Patents Act, this fact shall be recorded in the Register. Once the decision has become final, an entry shall be made in the Register in such a way that the main findings of the case are apparent in the Register.

If the Patent Office has declared a patent terminated under Section 54 of the Patents Act, this fact shall be recorded in the Register.

Section 42 Entries under Section 44 of the Patents Act concerning the transfer of a patent or the grant of a license or a pledge shall include the name, domicile and address of the owner of the right and the date of the transfer or grant of the license or rights. In the case of a license, it shall be stated, on request, whether the right of the owner of the patent to grant additional licenses has been limited. If it is not possible to take an immediate decision on the question of recording the transfer or grant of a license or a pledge, an entry shall nevertheless be made in the Register that recording has been requested.

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

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

Where the Patent Office receives such notification of transfer of a deposit as is referred to in the third paragraph of Section 17b or such receipt of a new deposit of a biological material as is referred to in the third paragraph of Section 17c, the transfer or the new deposit shall be recorded in the Register.

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

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

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

### **Receiving Office for International Patent Applications ➡**

Section 45 (15.2.1996/104) The Patent Office shall be the receiving Office for international patent applications where the applicant or one of the applicants is a national of Finland, a natural person domiciled in Finland, a legal entity constituted according to Finnish law or anyone who carries on business in Finland. Such applicant may file an international patent application also with the European Patent Office.

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

The following fees shall be payable to the Patent Office in that connection:

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

If the amount of the basic fee or of the designation fee has been increased after receipt of the application, but prior to making the payments, the fee may be paid without an increase if it is paid within one month of receipt of the application. (14.6.1985/505)

If the fee referred to in the second paragraph has not been paid within the prescribed time limit or if it has not been fully paid on expiry of the time limit, the Patent Office shall invite the applicant to pay the outstanding amount within one month of issuing the invitation. (26.6.1992/583)

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

Section 48 (14.6.1985/505) International applications filed with the Patent Office shall be submitted in a single copy. They shall be drafted in Finnish, Swedish or English or in any

other language accepted by the Patent Office. The application document for an international application may be in the English language even where the actual application is drafted in Finnish or Swedish.

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

Section 50 (13.7.2000/674) An applicant not domiciled in Finland shall be required to appoint a representative residing in the European Economic Area, entitled to represent him before the Patent Office in matters concerning the application.

Section 51 (14.6.1985/505) Where not prevented by the Act on Inventions of Importance to the Defense of the Country (No. 551/67), the Patent Office shall transmit the international applications it receives to the International Bureau of the World Intellectual Property Organization, in accordance with the Patent Cooperation Treaty and its Regulations.

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

Section 51 a (21.3.1997/246) Where the Patent Office is not competent to receive an international application filed with it by an applicant who is domiciled in or a national of a Contracting State, the Patent Office shall without delay transmit the application to the International Bureau in accordance with the Patent Cooperation Treaty and its Regulations.

In this connection, the applicant shall pay the transmittal fee referred to in Rule 19(4) of the Patent Cooperation Treaty within one month of the filing of the application. An application so received for the International Bureau shall be deemed to have been received on the day the international application has been filed with the Patent Office.

### **Pursuing International Patent Applications ➡**

(14.6.1985/505)

Section 52 (14.6.1985/505) If an international patent application has been filed in a language other than those referred to in the fifth paragraph of Section 8 of the Patents Act, a translation of the application shall be required in order to pursue the application under Section 31 of the Patents Act or to request a review under the first paragraph of Section 38 of the Patents Act. In such case, the provisions of Section 3 of this Decree concerning the translation shall be complied with, where applicable. The Patent Office may issue regulations concerning relaxation for applicants from the requirement to file a translation in cases where an international application is pursued in Finland in part only.

Section 52 a (14.6.1985/505) If the applicant has taken all steps required by Section 31 of the Patents Act for pursuing an international application, but the Patent Office has received no notification of receipt of the application from the International Bureau, the Patent Office shall notify the International Bureau thereof.

Section 52 b (14.6.1985/505) The time limit referred to in Section 34 of the Patents Act shall be:

(1) unless otherwise specified in item (2), four months from the expiration of the time limit for pursuing an international application as laid down in the first paragraph of Section 31 of the Patents Act; or

(2) if the applicant, within 19 months of the international filing date or, if priority is claimed, of the date of the claimed priority, has filed a statement under the second paragraph of Section 31 of the Patents Act, four months from the expiry of the 30-month time limit laid down in the said Section. (26.6.1992/583)

Section 52 c (14.6.1985/505) The request for review under the first paragraph of Section 38 of the Patents Act shall be filed within two months of the date on which the receiving Office or the International Bureau has sent a notification to the applicant of the decision referred to in that paragraph.

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

### **Supplementary Protection Certificates ➡**

(21.3.1997/246)

Section 52 d (21.3.1997/246) 'Supplementary protection certificate' refers to the supplementary protection certificate in accordance with Section 70 a of the Patents Act.

'Council Regulation' refers to Council Regulation (EEC) No 1768/92 concerning the creation of a supplementary protection certificate for medicinal products, with the amendments and additions made to it by decision No. 7/94 of the joint committee of the EEA, and to the European Parliament and Council Regulation (EC) No. 1610/96 concerning the adoption of a supplementary protection certificate for plant protection products.

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

The application document shall be signed by the applicant or his representative and shall state the particulars prescribed in Article 8 of the Council Regulation referred to in Section 52 d. If a supplementary protection certificate is applied for by several persons jointly, the application document shall also contain a statement as to which of them is entitled or, if the applicants have appointed a representative, whom they have jointly authorised to receive communications from the Patent Office on behalf of all applicants.

In addition, the applicant shall provide the Patent Office with any additional information on the product necessary for the processing of the application.

Section 52 f (28.6.1994/595) The application shall be written in Finnish or Swedish in compliance with the applicable language laws. If a document accompanying the application is drafted in a language other than those mentioned above, the Office may require that a translation be provided in either Finnish or Swedish.

Section 52 g (28.6.1994/595) The Patent Office shall keep a record of applications

received. In addition to the details listed in Article 9(2) of the relevant Council Regulation, the following particulars shall be entered in the record for each application:

- 1) the serial number and filing date of the application;
- 2) where the applicant has appointed a representative, the name, domicile and address of the representative;
- 3) the communications filed and fees paid in respect of the case; and
- 4) the decisions taken in respect of the case. (21.3.1997/246)

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

Section 52 h (21.3.1997/246) Provisions concerning publication of an announcement of an application for a supplementary protection certificate are laid down in Article 9 of the relevant Council Regulation. The announcement shall also contain the serial number and filing date of the application for a supplementary protection certificate.

Section 52 i (28.6.1994/595) An application for a supplementary protection certificate may not be amended to relate to another product or another basic patent.

Section 52 j (21.3.1997/246) In processing an application, the Patent Office does not verify that the application meets the conditions laid down in Article 3(1) (d) of the relevant Council Regulation.

Section 52 k (21.3.1997/246) The provisions of Sections 15 and 16 of the Patents Act apply to the time limits referred to in Article 10 (3) of the relevant Council Regulation.

Section 52 l (28.6.1994/595) The Patent Office shall publish an announcement of the fact that a supplementary protection certificate has been granted. The announcement shall contain, in addition to what is laid down in Article 11 of the relevant Council Regulation, indication of the serial number and filing date of the application and the registration number of the certificate. (21.3.1997/246)

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

Section 52 m (28.6.1994/595) The Patent Office shall keep a register of supplementary protection certificates granted. In the register shall be recorded the particulars referred to in the first paragraph of Section 52 l of the Patents Decree and, where the proprietor has appointed a representative, the name, domicile and address of the representative. In addition the provisions of Sections 40 to 42 of the Patents Decree shall apply.

Section 52 n (28.6.1994/595) Where an application for a supplementary protection certificate has been rejected or dismissed by a final decision, an announcement shall be published of this fact. The announcement shall contain the particulars referred to in Section 52 h above.

The Patent Office publishes an announcement of the fact that a supplementary protection certificate has lapsed where such a decision, at the request of a third party, has been taken in accordance with Article 14, item d, of the relevant Council Regulation. 821.3.1997/246)

Section 52 o (28.6.1994/595) A prescribed renewal fee is payable for a supplementary protection certificate for each fee year commencing after the expiry of the term of the basic patent.

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

Section 52 p (13.7.2000/674) An applicant for and a proprietor of a supplementary protection certificate not domiciled in Finland shall appoint a representative residing in the European Economic Area, as laid down in Sections 12 and 71 of the Patents Act.

Section 52 q (28.6.1994/595) If a European patent application is filed with the Patent Office, this shall, in accordance with Rule 24(2) and (3) of the Regulations under the European Patent Convention, indicate the date of filing on the documents of the application, issue a receipt for the documents and notify the European Patent Office thereof.

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

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

(15.2.1996/104)

Section 52 r (15.2.1996/104) If the Patent Office receives a request for conversion of a European patent application into a national application under Article 136(2) of the European Patent Convention, the Patent Office shall immediately transmit the request together with a copy of the application to the patent authorities of the countries specified in the request.

Section 52 s (15.2.1996/104) If the Patent Office receives a European patent application which has been transmitted there for conversion into a national application under Article 136 of the European Patent Convention, the Patent Office shall immediately notify the applicant thereof.

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

### **Record to be kept of European Patent Applications ➡**

(15.2.1996/104)

Section 52 t (15.2.1996/104) The Patent Office shall keep a separate record, accessible to the public, of European patent applications for which translations have been filed pursuant to Section 70 n of the Patents Act.

The particulars to be entered in the record for each application include the serial number of

the application, the applicant's name and address, and the date on which the translation or a corrected translation was received by the Patent Office as well as the date on which an announcement of the filing of the translation or a corrected translation was published. Further, the date which has been accorded as the filing date of the application and the particulars listed in subparagraphs 4 to 6, 10 and 11 of the second paragraph of Section 7 shall be entered.

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

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

(15.2.1996/104)

Section 52 u (15.2.1996/104) The filing of the translation and the payment of the fee under Section 70 h of the Patents Act shall take place within three months of the date on which the European Patent Office has published its decision to let the patent application proceed to grant or to maintain the patent in an amended form.

The translation under the first paragraph shall comprise the title of the invention, the description, including any drawings where necessary, and the patent claims.  
(21.3.1997/246)

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

If the requirements of paragraphs 2 and 3 hereof are not complied with, the translation under Section 70 h of the Patents Act shall be deemed not to have been filed.

Section 52 v (15.2.1996/104) The translation under Section 70 n of the Patents Act shall be accompanied by indication of the number of the application, and the applicant's name and address. If that requirement is not complied with, the translation shall be deemed not to have been filed.

Section 52 x (15.2.1996/104) Announcements concerning translations under Section 70 h of the Patents Act shall contain:

- (1) an indication of the particulars that pursuant to the third paragraph of Section 52 u shall accompany the translation;
- (2) the classes of the patent application or the patent;
- (3) the title of the invention;
- (4) the date accorded as the filing date of the application;
- (5) the date on which the European Patent Office has published its decision to let the patent



application proceed to grant or to maintain the patent in an amended form; and

(6) if priority is claimed, where the previous application whose priority is claimed was filed and the date of filing and serial number of that application.

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

(1) an indication of the particulars that pursuant to the third paragraph of Section 52 v shall accompany the translation;

(2) the classes of the patent application;

(3) the title of the invention;

(4) the date accorded as the filing date of the application; and

(5) if priority is claimed, where the previous application whose priority is claimed was filed and the date of filing and serial number of that application.

Section 52 y (15.2.1996/104) Correction of the translation under Section 70 q of the Patents Act shall be made by filing a rewritten copy of the document clearly indicating the correction. The correction of the translation shall be accompanied by an indication of the number of the patent application or the patent and the name and address of the proprietor of the patent or the applicant, respectively, at the risk of the correction of the translation being deemed not to have been filed.

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

(1) the information that pursuant to the third paragraph of Section 52 u shall accompany the translation;

(2) the classes of the patent application or the patent;

(3) the title of the invention; and

(4) the date on which the correction of the translation and the publication fee were received by the Patent Office.

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

(1) the information that pursuant to the third paragraph of Section 52 v shall accompany the translation;

(2) the classes of the patent application;

(3) the title of the invention; and

(4) the date on which the correction of the translation was received by the Patent Office.

## **TRANSITIONAL PROVISIONS** ➡

595/1994

This Decree shall enter into force on 1 July 1994.

If a supplementary protection certificate has been applied for in accordance with Article 19 (3) in the Council Regulation, the fee year, however, commences on the day when the filing of the application for a certificate has been published in accordance with Section 52 (h). In that case, the first annual fee falls due for payment two months after said day.

104/1996

This Decree shall enter into force on 1 March 1996.

This Decree is applied to applications filed after the entry into force of this Decree.

246/1997

This Decree shall enter into force on 1 April 1997.

The repealed paragraph 3 of Section 12 is applied to patent applications filed prior to the entry into force of this Decree.

If a parent application has been restricted prior to the entry into force of this Decree, due to the fact that it comprises two or more inventions independent of each other, paragraph 2 of Section 22, which was in force when the restriction was made, is applied to the divisional application.