

Order Concerning Utility Model Applications and Examination and other Processing of Registered Utility Models

Pursuant to section 5 (2), section 6 (2), section 7 (4), section 8 (3), section 17 (2), section 26, section 33 (4), section 35 and section 46 of the Utility Models, etc. Act, cf. Consolidated Act. No. 367 of June 9, 1998 and by order under section 1 of the Ministry of Industry Order No 416 af 27 May 1992, it is laid down that:

Chapter 1

Filing and recording of utility model applications

1.-(1) Danish utility model applications shall be filed with the Patent Office. Application forms shall be provided free of charge.

(2) International applications designating Denmark shall be filed with an authority or an international organisation being the prescribed receiving Office under the Patent Cooperation Treaty. Provisions relating to the Patent Office as receiving Office are found in sections 35 to 39 of this Order.

(3) Unless otherwise provided, the provisions of this Order shall only apply to:

(i) Danish utility model applications,

(ii) international applications proceeded with under section 20 of the Utility Models Act or taken up for examination and other processing under section 25 of the Utility Models Act, and

(iii) European patent applications converted into Danish patent applications under section 26 of the Utility Models Act.

2.-(1) A Danish utility model application shall indicate:

(i) The applicant's name or firm name, mailing address and, if the applicant is not represented by an agent, telephone and fax number, if any, and, if the applicant is represented by an agent, the latter's name or firm name, mailing address and telephone and fax number, if any,

(ii) the creator's name and mailing address,

(iii) a brief and factual title of the claimed creation,

(iv) if utility model registration is applied for by several applicants jointly, whether one of the applicants shall be authorised to receive communications from the Patent Authority on behalf of all the applicants,

(v) if priority is claimed under section 5 of the Utility Models Act, the information laid down in section 9 of this Order,

(vi) if a patent application is used as a basis for a utility model application, cf. section 6 of the Utility Models Act, the information laid down in section 13 (4) of this Order,

(vii) whether the applicant requests postponement of registration under section 16 (1) of the Utility Models Act,

(viii) if the application comprises the deposit of a sample of biological material, cf. section 8 of the Utility Models Act, the information laid down in section 21, and

(ix) the documents accompanying the application. Erhvervsmin., j.nr.

(2) The documents accompanying the application, shall include:

(i) a description of the creation, including drawings or photos required for the understanding of the creation, utility model claims and an abstract, and

(ii) if the applicant is represented by an agent, a power of attorney for the agent unless a power of attorney is given in the application.

(3) The Patent Office may grant exemption from the requirement to provide a power of attorney.

(4) The prescribed fee shall accompany the application.

3.-(1) A Danish utility model application shall be accorded a filing date when the documents filed by the applicant include:

(i) an indication that utility model registration is applied for,

(ii) information concerning the applicant's name or firm name and mailing address, and

(iii) a description, drawings or photos if referred to by the description, and one or several utility model claims.

(2) If the application fee does not accompany the application, such fee shall be paid before expiry of a time limit laid down by the Patent Office. If the fee is not paid before expiry of the time limit, the application shall be regarded as not having been filed, and the filing date shall no longer apply.

4.-A request for postponement of registration, cf. section 16 (1) of the Utility Models Act, shall be made in the application. If the request is not made in the application, the applicant's right to postponement shall lapse.

5.-(1) The applicant may ask the Patent Office to ensure that the application meets the requirements laid down in section 3 of the Utility Models Act. Such request shall be accompanied by the prescribed fee.

(2) A request according to subsection 1 may be put forward in the application or in a later separate letter.

(3) Where a request according to subsection 1 is not accompanied by the prescribed fee it shall be refused.

6.-(1) The application, description, utility model claims and abstract shall be in the Danish language. Other documents may be in Danish, Norwegian or Swedish.

(2) If a document is drawn up in any other language than those prescribed in subsection 1 hereof, a translation shall be filed. For documents other than the description, utility model claims and abstract, the Patent Office may abstain from requiring a translation. The Patent Office may also abstain from requiring a translation of such parts of the description or utility model claims as are not included in the basic documents as defined in section 25 of this Order. The Patent Office may accept a translation into a language other than those referred to in subsection 1 hereof. The Patent Office may require that the translation be certified by a translator or in another specified approved manner.

(3) The examination of whether the application complies with the conditions laid down in section 3 of the Utility Model Act may be made on the basis of a description, utility model claims and an abstract in Norwegian or Swedish language. In particular cases such an examination may be made on the basis of a description, utility model claims and an abstract in English language, if the applicant submits a request to that effect and pays the prescribed fee. In both cases the Danish Patent Office shall not require the translation referred to in subsection 2 of this Order until the applicant has been notified of the result of the examination.

7.-(1) The description, utility model claims, abstract, drawings and photos shall be presented in a form suitable for reproduction.

(2) These documents and their amendments shall be filed in the form prescribed by the Patent Office.

8.-(1) The Patent Office shall keep a record of utility model applications filed.

(2) In the record, the following data shall be entered for each application:

(i) the number of the application,

(ii) the classes of the application according to the international patent classification system,

(iii) the applicant's name or firm name and mailing address,

(iv) if the applicant is represented by an agent, the name or firm name and mailing address of the agent,

(v) the creator's name and mailing address,

(vi) the title of the creation,

(vii) a) if the application is a Danish utility model application, the date of filing of the application and the effective date of the application if different from the date of filing,

b) if the application is an international application, the international date of filing and the date on which the application was proceeded with under section 20 of the Utility Models Act or is deemed

to have been filed under section 25 (2) of the Utility Models Act, and the number of the international application, or

c) if the application is a converted European patent application, the number of the European patent application, its date of filing under the European Patent Convention and the date on which the European patent application was converted into a Danish utility model application,

(viii)a) if the application is made on the basis of a Danish patent application under section 6 of the Utility Models Act, the date of filing and number of the patent application,

b) if the application is made on the basis of an international application under section 6 of the Utility Models Act, the number of the international application, the international date of filing and the date on which the application was proceeded with under section 31 of the Patents Act or is deemed to be filed under section 38 of the Patents Act, and the number of the Danish patent application,

c) if the application is made on the basis of a European patent application under section 6 of the Utility Models Act, the date of filing of the European patent application under the European Patent Convention and its number, or

d) if the application is made on the basis of a converted European patent application under section 6 of the Utility Models Act, cf. section 88 of the Patents Act, the number of the European patent application, its date of filing under the European Patent Convention, and the date on which the European patent application was converted into a Danish patent application, and the number of the Danish patent application,

(ix) If priority is claimed under section 5 of the Utility Models Act where the application serving as a basis for claiming a right of priority has been filed and the date of filing and number of such application,

(x) if the application is made on the basis of division or excision, the number of the parent application,

(xi) if the application comprises the deposit of a sample of biological material, information concerning the institution at which the sample has been deposited and the number which the deposited sample has been accorded by the institution,

(xii) whether the applicant has requested an examination, cf. section 12 (2) of the Utility Models Act,

(xiii) where new applications result from diversion of or excision from the application, information to that effect and indication of the numbers of those applications,

(xiv) whether the applicant has requested postponement of registration under section 16 (1) of the Utility Models Act,

(xv) if the application has been made available to the public under section 16 (3) of the Utility Models Act, the date thereof,

(xvi) communications received and fees paid in respect of the application, and

(xvii) notifications and communications sent in respect of the application.

(3) The information referred to in subsection 2 hereof shall be available to the public when the application has been made available to the public under sections 16 and 22 (3) of the Utility Models Act.

Chapter 2

Priority

9.-(1) In order to obtain priority under section 5 of the Utility Models Act, the applicant shall claim priority at the same time as the filing of the application. The claim shall state where the application whose priority is claimed was filed, its date of filing and, if it is an international application, other information in accordance with rule 4.10 of the Regulations under the Patent Cooperation Treaty. For a Danish utility model application, the applicant shall state the number of the application whose priority is claimed as soon as possible.

(2) For an international application, the applicant shall claim priority in the request form. The claim shall include information as to where the application whose priority is claimed was filed, its date of filing, its number and other information in accordance with rule 4.10 of the Regulations under the Patent Cooperation Treaty. It is, however, possible to make corrections or additions to the claim for priority or to other information mentioned above in accordance with rule 26 bis of the Regulations under the Patent Cooperation, whereupon the receiving office or the International Bureau shall be notified herof. The notification shall be given within 16 months from the priority date, or where the correction or addition will lead to an amendment of the priority date, 16 months from the amended priority date depending on which 16 months period expires the first. It shall, however, be possible to file such a notification until 4 months from the international filing date.

(3) If an application is divided under section 26 of this Order, the priority claim for the parent application shall apply, without any separate claim for priority, to new applications resulting from the division.

(4) Withdrawal of a priority shall be effected by separate notification.

10.-(1) The Patent Authority may demand that the priority requested be documented by filing a certificate from the authority which received the original application, stating its date of filing and the applicant's name or firm name. The Patent Authority may also demand that a copy of the application certified by the said Authority be filed.

(2) If the applicant fails to file the said documentation within a time limit laid down by the Patent Authority, the applicant's right of priority shall lapse.

(3) The provisions in subsections 1 to 2 hereof shall apply mutatis mutandis to processing by the Patent Authority of a request under section 34 (1) (i) of the Utility Models Act and to an examination under section 34 (3) of the Utility Models Act.

(4) For international applications, a copy of the application whose priority is claimed shall be filed in accordance with rule 17 (1) of the Regulations under the Patent Cooperation Treaty to the

International Bureau referred to in section 9 of this Order, to the receiving Office, or a request shall be made to transfer it to the International Bureau according to the same rule. If a copy of the application whose priority is claimed has been filed with the International Bureau, the Patent Authority 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.

11.-(1) For an application to be capable of serving as a basis for priority under section 9 of this Order, it shall be the first application in which the creation is disclosed.

(2) If the person who filed the first application or his successor in title has filed a subsequent application relating to the same creation with the same authority, the subsequent application may be claimed as a basis for priority provided that, at the time of the filing of the subsequent application, the first application has been withdrawn, shelved or refused without having been made available to the public and without leaving any rights outstanding or having served as a basis for claiming a right of priority. If priority has been obtained on the basis of such subsequent application, the previous application may no longer serve as a basis for claiming a right of priority.

12.- Priority may be claimed for part of an application. For one and the same application, priority may be claimed from several applications, even if they relate to different countries. Several applications may be claimed as a basis for priority for a single utility model claim. If priority is claimed on the basis of several applications, the time limits commencing on the date of priority shall have effect from the earliest priority date.

Chapter 3

Patent applications used as a basis for utility model applications

13.-(1) A patent application for Denmark may be used in whole or in part as a basis for a utility model application relating to the same creation in up to 10 years with effect from the date of filing of the patent application, or with effect from the date which is deemed to be the date of filing. A patent application for Denmark shall mean:

- (i) a Danish patent application,
- (ii) an international application proceeded with in Denmark under section 31 of the Patents Act, or taken up for examination and processing under section 38 (3) of the Patents Act,
- (iii) a European patent application in respect of which the European Patent Authority has fixed a filing date under the European Patent Convention, and in which Denmark has been designated, or
- (iv) a European patent application which has been converted into a Danish patent application under section 88 of the Patents Act.

(2) If a patent application under subsection 1 hereof is used as a basis for a utility model application, the utility model application shall be accorded the same date of filing as the one applying to the patent application. A request for priority for the patent application shall also apply to the utility model application without a separate request having to be made.

(3) If an applicant wishes to use a patent application as a basis for a utility model application, the applicant shall, not later than 2 months after the patent application has been shelved without a

possibility of being resumed or has been finally refused by the Patent Authority, file a utility model application with a request to that effect. Such request shall be made at the same time as the filing of the utility model application.

(4) A request under subsection 3 hereof shall state the nature of the patent application to form the basis for a utility model application, cf. subsection 1, (i) to (iv), hereof, as well as the date of filing of the patent application or the date deemed as the filing date, and the number of the application.

(5) Failure to make a request under subsection 3 hereof in time shall cause the right to use the patent application as a basis for the utility model application filed to lapse.

14.-(1) If an application has been claimed as referred to in section 13 (1) (iii) of this Order, the basis for the request shall be documented by filing a certificate from the European Patent Authority stating the date of filing of the application, the applicant's name or firm name and whether the application designates Denmark. Moreover, a copy of the application certified by the authority mentioned shall be filed.

(2) Where the claimed patent application is in a foreign language other than those stipulated in section 6(1), section 6(2 and 3) of this Order shall similarly be applicable, unless the utility model application by this time represents the translation of the foreign patent application.

(3) Failure by the applicant to file the documentation referred to in subsection 1 hereof or a translation under subsection 2 hereof shall cause the right to use the patent application as a basis for the utility model application filed to lapse.

Chapter 4

Utility model claims, description and abstract

15.-(1) The utility model claims shall contain:

- (i) the title of the creation,
- (ii) a statement of the art in relation to which the creation constitutes something new (the state of the art), if such information is necessary, and
- (iii) a statement of the novel and characteristic features of the creation.

(2) The statement of the information referred to in subsection 1, (ii) to (iii), hereof may be made in the form of a reference to the description with drawings and photos, if any.

(3) Each utility model claim shall relate to one creation only.

(4) A utility model claim shall not contain anything that is irrelevant to the creation specified in the claim or immaterial to the exclusive right applied for.

16.-A utility model application may contain several utility model claims. If several claims are contained in one application, they shall be arranged collectedly and numbered consecutively.

17.-(1) A utility model application may contain several creations if there is a technical connection between the creations. The technical connection shall manifest itself in the creations having, 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 creation going beyond the state of the art.

(2) The question whether there is a technical connection between a number of creations shall be determined irrespective of whether they are stated in separate utility model claims or as alternatives in a single claim.

18.-(1) The description shall start by stating a brief and factual title of the creation and how it may be exploited commercially if this does not appear directly from the nature of the creation. The description shall moreover include:

(i) A statement of the applications of the creation and the state of the art as far as the technology forming the basis of the creation is concerned. It shall be stated specifically what is achieved by the creation based on the state of the art and the means required to achieve this.

(ii) A detailed explanation of the creation illustrated by explanatory examples or embodiments referring to drawings or photos, if any.

(2) The description of the creation shall only contain subject-matter which contributes to the understanding of the creation. Where newly coined terms or terms which are not generally accepted are used, their meanings shall be explained. Symbols and units of measurement shall not deviate from those in general use in the Nordic countries.

19.- The abstract shall state the title of the creation and shall contain a brief version of the basic documents, cf. section 25 of this Order. The abstract shall not contain more than 150 words.

Chapter V

Deposits of a sample of biological material

20.-(1) Deposits under section 8 (1) of the Utility Models Act shall be made with an institution which is an international depositary authority under the Treaty done at Budapest on 28 April 1977 on the International Recognition of the Deposit of Micro-Organisms for the Purposes of Patent Procedure (the Budapest Treaty) or with one of the other depositary institutions recognised by the European Patent Office.

(2) The deposit shall be made in accordance with the Budapest Treaty.

(3) The Patent Office shall make a list of the institutions with which deposits can be made.

21.-(1) If a Danish utility model application comprises the deposit of a sample of biological material, the application shall at the date of filing contain information to that effect, cf. section 2 (2) (viii) of this Order. The institution with which the deposit has been made shall appear from the application as well as the number which the institution has accorded the deposited sample.

(2) For an international application, the applicant shall within 16 months from the date of filing by the applicant or, if priority is claimed, from the date of priority, notify the International Bureau

referred to in section 9 of this Order, in writing concerning the institution with which the deposit has been made and the number which the institution has accorded the deposited sample.

(3) If a deposited sample of biological material has been transferred from one depositary institution to another under Rule 5 (1) of the Regulations under the Budapest Treaty, the applicant shall as soon as possible after having received a receipt in respect of the transferred deposit inform the Patent Authority thereof and of the new number accorded to the deposited sample.

22.- A new deposit as referred to in section 8 of the Utility Models Act shall be made pursuant to the provisions of the Budapest Treaty for a new deposit.

23.- As proof of the correctness of a deposit, the Patent Authority may require a copy of the receipt issued by the depositary institution for the deposit.

Chapter VI

Amendment of utility model applications

24.-(1) Utility model claims shall not be amended so as to contain subject-matter not disclosed in the basic documents, cf. sections 25 and 28 (1) of this Order. If a utility model claim is amended by the addition of new definitions, the applicant shall state at the same time where the new definitions have their counterparts in the basic documents.

(2) Unless the Patent Authority allows otherwise, amendments or additions to claims shall be made by filing new copies of the claims. Those copies shall comprise all the maintained claims in their context.

25.-(1) For Danish utility model applications, utility model applications for which examination and other processing are commenced under section 25 of the Utility Models Act and European patent applications for which conversion into a Danish utility model application is requested, the basic documents shall be held to be the description with accompanying drawings or photos and utility model claims drawn up in Danish, Norwegian or Swedish present at the filing of the application or on the date on which the application is deemed to have been filed, respectively.

(2) If no such documents are present on the date referred to in subsection 1 hereof, the basic documents shall be held to be the translation of the description with accompanying drawings or photos and utility model claims filed in Danish, Norwegian or Swedish to the extent their contents appear clearly from the documents present on the date of filing of the application or the date on which the application is deemed to have been filed, respectively.

(3) For international applications which are proceeded with under section 20 of the Utility Models Act, the basic documents shall be held to be the translation of the description, drawings or photos and utility model claims filed under the said provision with the amendments of the translation which may have been made prior to the expiry of the time limit applying under section 41 of this Order. If the international application is filed with the receiving Office in Danish, the basic documents shall be held to be the description, drawings or photos and utility model claims filed under section 20 of the Utility Models Act.

(4) If with the consent of the applicant an application has resulted in registration, or the application has been refused prior to the expiry of a time limit applying under section 41 of this Order, cf.

section 23 of the Utility Models Act, the basic documents shall be held to be the description, drawings or photos and utility model claims present at the time of deciding on the application.

Chapter VII

Division and excision

26.-(1) If several creations are described in the basic documents, the applicant may divide the application into several applications. At the applicant's request, a new application relating to a creation extracted from the original application (the parent application) shall be considered to have been filed at the same time as the parent application.

(2) If division is made in consequence of the fact that an application relates to two or more mutually independent creations, a new application may only be considered to have been filed at the same time as the parent application if the new application is filed within 1 month after the corresponding restriction of the parent application was made.

(3) If the applicant requires utility model registration of an independent creation in an international application, the application shall be divided and a new application fee paid even if an additional fee as referred to in section 24 (1) of this Order has been paid.

27.- If, as a result of an addition to the description or claims, or in another way, a utility model application discloses a creation not disclosed in the basic documents, a new application relating to that creation excised from the original application (the parent application) shall, at the applicant's request, be considered to have been filed on the date when the document disclosing the creation was received by the Patent Office.

28.-(1) In the event of division or excision, the basic documents shall be held to be the description with accompanying drawings or photos and utility model claims filed in connection with the new application.

(2) A new application shall only be considered as resulting from division or excision if this is evident from the application when filed. The date of filing and number of the original application shall be indicated in applications resulting from division or excision.

Chapter VIII

Search and separation by the Patent Authority

29.-(1) In examining whether the provisions in section 3 of the Utility Models Act are complied with, the Patent Authority shall consider everything that comes to its attention.

(2) The search shall, to the extent required, be made on the basis of utility model specifications from Denmark, registered designs in Denmark, patent specifications, specifications of accepted utility model applications, published patent applications or abstracts thereof from Denmark, Sweden, Finland, Norway, the Federal Republic of Germany, the former German Reich, Great Britain, France, the United States of America and the European Patent Authority, published international applications or abstracts thereof, and applications available to the public relating to utility models, patents or relating to designs in this country. If deemed necessary, the search shall also be based on other available literature.

Chapter IX

Applications available to the public

30.-(1) When the documents of a utility model application, prior to the creation being registered, is made available to the public under section 16 of the Utility Models Act, the abstract shall be published. Copies of the published abstract shall be obtainable from the Patent Office against payment. If the application has been shelved or it has been decided to refuse the application, the documents shall not be made available to the public unless the applicant requests resumption, makes a complaint against the refusal or invokes the provisions in section 44 of this Order.

(2) The advertisement to be made when an application is made available to the public shall state the number and classes of the application, its date of filing, the effective date, if different from the date of filing, the title of the creation, and the applicant's name or firm name and mailing address, and the creator's name and mailing address. If priority has been claimed, the advertisement shall also state where the application whose priority is claimed was filed, the date of filing of the said application and its number. If the application is made on the basis of a patent application under section 6 of the Utility Models Act, the advertisement shall state the nature of the patent application, cf. section 13 (1), the date of filing of the application and its number. If the application includes a deposit of a sample of biological material, this shall be stated in the advertisement. If the applicant has requested under section 8 (2) of the Utility Models Act that a sample shall be furnished only to an expert in the art, that shall also be advertised.

(3) If the translation of the description and the utility model claims of an international application have been amended prior to the expiry of the time limit applying under section 41 of this Order, but after the files of the application have been made available to the public, that fact shall be advertised.

31.-(1) A request under section 8 (2) of the Utility Models Act for the furnishing of a sample of deposited biological material shall be filed with the Patent Office and drawn up in accordance with Rule 11 of the Regulations under the Budapest Treaty.

(2) If the request referred to in subsection 1 hereof is made before the utility model application to which the deposit relates has been finally decided upon, the person requesting the sample shall undertake vis-à-vis the applicant to use the sample for experimental purposes only, until such time as the application is finally decided upon, and not to make the sample available to any third party within the same period or, if the creation is registered as a utility model, until such time as the utility model registration ceases to have effect.

(3) If the request referred to in subsection 1 hereof is made for a sample of a deposit relating to a utility model registration, the person requesting the sample shall undertake vis-à-vis the proprietor of the utility model not to make the sample available to any third party until such time as the utility model registration ceases to have effect.

(4) As far as biological material derived from the sample is concerned, biological material which still exhibit the characteristics of the deposited biological material which are essential to carrying out the creation, the person requesting the sample shall accept the same obligations as those applying to the sample.

(5) Where the person requesting the sample is required to accept the said obligations, it shall be done in a declaration accompanying the request.

32.-(1) A request under section 8 (2) of the Utility Models Act to the effect that the furnishing of a sample shall only be effected to an expert in the art shall be submitted to the Patent Office not later than on the date on which the application is made available to the public under section 16 of the Utility Models Act.

(2) If the furnishing of a sample may only be effected to an expert in the art, cf. subsection 1 hereof, the request for a sample shall indicate the expert to be used. The request shall be accompanied by a declaration from the expert in which he accepts the obligations visà-vis the applicant to the extent referred to in section 31 (2) and (4) of this Order. In those cases the person making the request shall not be required to make any declaration himself.

(3) Any person entered on a list drawn up by the Patent Office or any person approved by the applicant in the individual case may be used as an expert.

33.- Notwithstanding any declaration made under sections 31 and 32 of this Order, biological material derived from a furnished sample may be deposited for the purpose of a new utility model or patent application, if the deposit of the derived biological material is required for that application.

34.- If a request has been made for the furnishing of a sample, and if under the Utility Models Act or this Order there is nothing to prevent such furnishing, the Patent Office shall issue a certificate to that effect. The Patent Office shall transmit the request for the furnishing of a sample and the certificate to the depositary institution with which the sample is deposited. At the same time, the Patent office shall transmit a copy of the request and the certificate to the applicant or the proprietor of the utility model.

Chapter X

The Patent Office as receiving Office for international applications

35.-(1) The Patent Office is the receiving Office for international applications from applicants who are Danish nationals and applicants who are residents of Denmark or have a commercial establishment in Denmark or who are legal entities recognised according to Danish law.

(2) If an international application is filed by several applicants, and if at least one of the applicants complies with the conditions referred to in subsection 1 hereof, that subsection shall apply with respect to the filing of the application.

(3) An applicant who is not a resident of this country shall have an agent residing in this country to represent him before the Patent Office in all matters concerning the application.

36.-(1) In its capacity as receiving Office, the Patent Office shall receive, check and transmit international applications in accordance with the Patent Cooperation Treaty and its Regulations.

(2) The applicant shall pay the prescribed fee for the application to the Patent Office in its capacity as receiving Office. The fee consists of:

- (i) the basic fee referred to in Rule 15 (1) of the Regulations under the Patent Cooperation Treaty,
- (ii) the designation fee referred to in Rule 15 (1) of the said Regulations,

- (iii) the confirmation fee referred to in Rule 15 (5) of the said Regulations,
- (iv) the search fee referred to in Rule 16 (1) of the said Regulations, and
- (v) the fee for the Patent Office's handling of the application as receiving Office (the transmittal fee) referred to in Rule 14 of the said Regulations.

(3) As far as the fees referred to in subsection 2(i) and (iv) to (v) hereof are concerned, the application fee shall be paid within 1 month from the receipt of the application. The fee referred to in subsection 2 (ii) hereof shall be paid within 1 year from the international date of filing of the application or, if priority is claimed, from the priority date, provided always that in the latter case the fee may be paid within 1 month from the receipt of the application. The fee referred to in subsection 2 (iii) hereof shall be paid within 15 months from the international date of filing of the application or, if priority is claimed, from the priority date.

(4) If the application fee has not been paid in due time, or has been paid in an insufficient amount at the expiry of the time limit, Rule 16 bis of the said Regulations shall apply.

37.-(1) The International Searching Authority performing the international search of the applications referred to in section 35 (1) shall, at the applicant's discretion, be the Swedish Patent Authority or the European Patent Authority. The application shall be filed in a single copy in Danish, Swedish, Norwegian, English, German or French. The Swedish Patent Authority accepts applications in Danish, Swedish, Norwegian or English. The European Patent Authority accepts applications in English, German or French. The request form, however shall be in the language in which the application will be published later.

(2) If the application is not in a language accepted by the chosen International Searching Authority, cf. subsection 1, a translation into such a language shall be filed with the Patent Office within a month from the date of receipt in accordance with rule 12.3 of the Regulations under the Patent Cooperation Treaty.

38.-A separate record shall be kept of international patent applications filed with the Patent Office. The record shall not be open to the public.

39.- Provided that the international application is not comprised by the Danish Secret Patents Act, the Patent Office shall, in accordance with the Patent Cooperation Treaty and its Regulations, transmit the application to the International Bureau referred to in section 9 of this Order.

Chapter XI

Translation of international applications, etc.

40.- The provisions of section 6 (2 and 3) of this Order shall similarly apply with respect to the filing of a translation pursuant to section 20 of the Utility Model Act, and request for re-examination according to section 25(1) of the Utility Model Act.

(2) The Patent Office may reduce the obligation to file a translation in cases where only part of an international application is proceeded with in this country. If translation of only part of an international application is filed, the applicant shall make a declaration from which it appears which

parts of the international application are not included in the translation. The declaration shall also state the reason for leaving out the parts concerned.

41.-(1) The time limit referred to in section 23 of the Utility Models Act shall expire 4 months after the expiry of the time limit prescribed in section 20 of the Utility Models Act.

(2) If, however, the applicant within 19 months from the international date of filing or, if priority is claimed, from the priority date pursuant to the Patent Cooperation Treaty, has filed a declaration to the effect that the applicant intends to use the results of an international preliminary examination by applying for utility model protection for Denmark, the time limit referred to in section 23 of the Utility Models Act shall expire at the same time as the time limit of 32 months for proceeding with the application.

42.- If, with respect to an international application, the applicant has complied with the provisions of section 20 of the Utility Models Act, but the Patent Office has not yet received notification from the International Bureau referred to in section 9 of this Order to the effect that the Bureau has received the application, the Patent office shall notify the Bureau thereof.

43.-(1) The time limit for presenting a request for a review under section 25 (1) of the Utility Models Act shall expire 2 months after the date on which the receiving Office or the International Bureau referred to in section 9 of this Order has notified the applicant of such decision as referred to in section 38 (1) of the Patents Act.

(2) If the applicant proves that he has received the notification referred to in subsection 1 hereof later than 7 days after the date of the notification, the time limit shall be extended by as many days in excess of 7 as have passed from the date of the notification until the date on which the applicant received the notification.

44.-(1) If, in the cases referred to in section 20 of the Utility Models Act, the applicant has availed himself of mailing, and the mail is not received in due time, but the act is completed within 1 month after the date on which the applicant realised or ought to have realised that the time limit was exceeded and not later than 6 months after the expiry of the time limit, the Patent Office shall pursuant to section 48 of the Patent Cooperation Treaty consider the time limit as met provided that:

(i) within the 10 days preceding the expiry of the time limit the postal service was interrupted on account of war, revolution, civil disorder, strike, natural calamity or other like reason in the locality where the sender is resident, has his place of business or is staying, and it is proved that the mailing to the Patent Office is effected within 5 days after the resumption of the postal service, or

(ii) the mailing was effected by registered mail to the Patent Office not later than 5 days prior to the expiry of the time limit, though only if the mailing was effected by airmail, where possible, or if the sender had every reason to believe that surface mail would not arrive later than 2 days after the date of mailing.

(2) If the applicant wishes to invoke the provisions in subsection 1 hereof, he shall file a request to that effect with the Patent Office within the expiry of the said time limit.

Chapter XII

Conversion of European patent applications

45.-(1) If a European patent application is transmitted to the Patent Office under Articles 136 and 140 of the European Patent Convention, the Patent Office shall inform the applicant thereof without delay.

(2) The application fee and the translation or, if the European application is written in Danish, a copy of the application under section 26 of the Utility Models Act shall be received by the Patent Office within 2 months from the date on which the Patent Office sent the notification referred to in subsection 1 hereof to the applicant.

Chapter XIII

Registration of the creation

46.-(1) Publication of the description with drawings or photos, utility model claims and abstract (utility model specifications) shall be effected by the Patent Office as soon as possible after the creation has been registered. The utility model specifications shall indicate the date of registration of the utility model and:

- (i) the number of the application and the registration number of the utility model,
- (ii) the classes of the utility model according to the international patent classification system,
- (iii) the utility model proprietor's name or firm name and mailing address,
- (iv) if the applicant is represented by an agent, the name or firm name of the agent,
- (v) the creator's name and mailing address,
- (vi) the title of the creation,
- (vii) a) if the application was filed as a Danish utility model application, the date of filing of the application and the effective date of the application if different from the date of filing,
b) if the application was filed as an international application, the international date of filing and the date on which the application was proceeded with under section 20 of the Utility Models Act or is deemed to have been filed under section 25 (2) of the Utility Models Act, and the number of the international application, or
c) if the application was filed as a converted European patent application, the number of the European patent application, its date of filing under the European Patent Convention and the date on which the European patent application was converted into a Danish utility model application,
- (viii) a) if the application is made on the basis of a Danish patent application under section 6 of the Utility Models Act, the date of filing and number of the patent application,
b) if the application is made on the basis of an international application under section 6 of the Utility Models Act, the number of the international application, the international date of filing and

the date on which the application was proceeded with under section 31 of the Patents Act or is deemed to have been be filed under section 38 of the Patents Act, and the number of the Danish patent application,

c) if the application is made on the basis of a European patent application under section 6 of the Utility Models Act, the date of filing date of the European patent application under the European Patent Convention and its number, or

d) if the application is made on the basis of a converted European patent application under section 6 of the Utility Models Act, cf. section 88 of the Patents Act, the number of the European patent application, its date of filing under the European Patent Convention, and the date on which the European patent application was converted into a Danish patent application, and the number of the Danish patent application,

(ix) If priority is claimed under section 5 of the Utility Models Act where the application serving as a basis for claiming a right of priority has been filed and the date of filing and number of such application,

(x) if the application is made on the basis of division or excision, the number of the parent application,

(xi) whether the utility model comprises a sample of biological material,

(xii) whether the application has been examined under section 12 (2) of the Utility Models Act and, if so, any cited documents,

(xiii) the date when the documents of the application were made available to the public, if different from the date when the utility model was registered.

47.- The advertisement of the registration of the creation made under section 14 (1) of the Utility Models Act shall contain the items of information to be given in the utility model specifications under section 46 of this Order with the exception of cited documents.

Chapter XIV

The Register of Utility Models, etc.

48.- The Patent Office shall keep a register of the utility models registered in this country.

49.-(1) When the Patent Authority has made a final decision to register a utility model, the following items shall be entered in the Register of Utility Models:

(i) the number of the application and the registration number of the utility model,

(ii) the classes of the utility model,

(iii) the utility model proprietor's name or firm name and mailing address,

(iv) if the utility model proprietor is represented by an agent, the name or firm name and mailing address of the agent,

(v) the creator's name and mailing address,

(vi) the title of the creation,

(vii) a) if the utility model is registered on the basis of a Danish utility model application, the date of filing of the application and the effective date of the application if different from the date of filing,

b) if the utility model is registered on the basis of an international application, the international date of filing and the date on which the application was proceeded with under section 20 of the Utility Models Act or is deemed to have been filed under section 25 (2) of the Utility Models Act, and the number of the international application, or

c) if the utility model is registered on the basis of a converted European patent application, the number of the European patent application, its date of filing under the European Patent Convention and the date on which the European patent application was converted into a Danish utility model application,

(viii)a) if the utility model was registered on the basis of an application made on the basis of a Danish patent application under section 6 of the Utility Models Act, the date of filing and number of the patent application,

b) if the utility model is registered on the basis of an application made on the basis of an international application under section 6 of the Utility Models Act, the number of the international application, the international date of filing and the date on which the application was proceeded with under section 31 of the Patents Act or is deemed to have been filed under section 38 of the Patents Act, and the number of the Danish patent application,

c) if the utility model is registered on the basis of an application made on the basis of a European patent application under section 6 of the Utility Models Act, the date of filing of the European patent application under the European patent application, its filing date under the European Patent Convention and its number, or

d) if the utility model is registered on the basis of an application made on the basis of a converted European patent application under section 6 of the Utility Models Act, cf. section 88 of the Patents Act, the number of the European patent application, its date of filing under the European Patent Convention, and the date when the European patent application was converted into a Danish patent application, and the number of the Danish patent application,

(ix) If priority is claimed under section 5 of the Utility Models Act where the application serving as a basis for claiming a right of priority has been filed and the date of filing and number of such application,

(x) if the utility model is registered on the basis of an application made on the basis of division or excision, the number of the parent application,

(xi) if the utility model comprises the deposit of a sample of biological material, information concerning the institution at which the sample has been deposited and the number which the deposited sample has been accorded by the institution,

(xii) if the utility model is registered on the basis of an application which has been examined under section 12 (2) of the Utility Models Act,

(xiii) the date when the files of the application were made available to the public, if different from the date when the utility model was registered,

(xiv) the date when the registration of the utility model was advertised under section 14 of the Utility Models Act.

50.-(1) If the Patent Office is notified to the effect that proceedings have been instituted for the revocation of a utility model registration, the transfer of a utility model registration, or a compulsory licence, cf. section 43 of the Utility Models Act, an entry to that effect shall be made in the Register.

(2) When an office copy of a court decision has been sent to the Patent Office under section 44 (3) of the Utility Models Act, an entry to that effect shall be made in the Register of Utility Models. When the court decision is final, the entry shall be made in such a way that the principal outcome of the case appears from the Register.

(3) If the Patent Office has declared the utility model registration to have ceased to have effect under section 33 of the Utility Models Act, an entry to that effect shall be made in the Register.

51.-(1) An entry under section 29 of the Utility Models Act concerning the transfer of the right to a registered utility model or the grant of a licence shall comprise the name or firm name and mailing address of the holder of the right in question, as well as the date on which the transfer or the grant of the licence took place. As far as licences are concerned, an entry shall be made, if so requested, as to whether the right of the proprietor of the utility model to grant additional licences is restricted. If the question of entering the transfer of a registered utility model or the grant of a licence cannot be decided upon immediately, it shall be stated in the Register that an entry has been requested.

(2) Notifications with respect to changes regarding the agent or the name, firm name or mailing address of the proprietor of the utility model shall be entered in the Register.

(3) A request for an entry as referred to in subsections 1 and 2 hereof shall be submitted to the Patent Office accompanied by proper documentation for such changes. The Patent Office may make an exemption from the requirement concerning a power of attorney.

(4) If with respect to a registered utility model the Patent Office has received notification of the transfer of deposited biological material as referred to in section 21 (3) of this Order, or has received a copy of the receipt for a new deposit, cf. section 23 of this Order, an entry concerning the transfer or the new deposit shall be made in the Register.

52.-(1) Renewal of registration of a utility model shall be effected by payment of the prescribed fee to the Patent Office not earlier than 3 months prior to and not later than 6 months after expiry of the registration period.

(2) If the registration of a utility model is renewed, an entry shall be made to that effect in the Register of Utility Models.

(3) The Advertisement of renewal shall contain information concerning registration number and the date of expiry of the registration period.

53.- If registration has ceased, the utility model shall be deleted from the Register of Utility Models.

Chapter XV

Deletion of a utility model registration and administrative examination

54.-(1) A request under section 34 of the Utility Models Act shall be filed with the Patent Office and shall include:

- (i) name or firm name and mailing address of the person making the request,
- (ii) the registration number of the utility model which the request relates to as well as the utility model proprietor's name or firm name and the title of the creation, and
- (iii) if the person making the request is represented by an agent, such agent's name or firm name and mailing address.

(2) A request for deletion in whole or in part under section 34 (1) and (2) of the Utility Models Act shall be made on one of the grounds referred to in section 34 (1) of the said Act.

(3) If a request for deletion is made on the ground that registration has not taken place pursuant to section 3 of the Utility Models Act, such request shall be accompanied by documentation to prove this, cf. section 34 (2) of the Utility Models Act.

(4) A request made under section 34 of the Utility Models Act shall be accompanied by the prescribed fee.

55.-(1) If the request does not comply with the provisions in section 34 of the Utility Models Act and section 54 (1), (i) to (ii), and subsection 4 of this Order, the request shall be refused.

(2) Where the claim of extinction does not comply with the provisions of section 54(1), (iii), subsections 2, or 3, the Patent Authority shall give notification hereof to the person having made the claim and shall urgently request that the person rectifies the shortcomings pointed out within 1 month. Where the claim is not rectified within the time stated, it shall be rejected.

(3) Where a claim of examination does not comply with the provisions of section 54(1), (iii), of this Order the Patent Authority shall give notification hereof to the person having made the request for examination and shall urgently advise the person to rectify the shortcomings pointed out within 2 months. Where the claim is not rectified within the time stated, it shall be rejected.

56.-(1) A request filed under section 34 of the Utility Models Act shall be advertised. The advertisement shall state the name or firm name of the utility model proprietor, the date of filing and number of the application, the registration number and classes of the utility model, the title of the creation, the name or firm name of the person who made the request and the registration date of the utility model.

(2) An entry of a request filed under section 34 of the Utility Models Act shall be made in the Register of Utility Models.

57.-(1) If the request for deletion or examination has been filed by any other persons than the proprietor of the utility model, a copy of all contributions with accompanying documents shall be sent to the proprietor of the utility model who shall be invited, if necessary, to submit description, utility model claims and drawing or photos as amended within 2 months.

(2) If the proprietor of the utility model replies to the request, the Patent Authority shall decide whether additional correspondence between the parties is necessary.

58.- If, after the submission of a request under section 34 of the Utility Models Act, the Patent Authority establishes any objections to registration, and registration is consequently to be deleted, the parties shall be notified to that effect by way of a decision stating the grounds. The same shall apply if a request for deletion or examination has been made by others than the proprietor of the utility model, and the Patent Authority finds that the utility model registration may be maintained in unamended form.

59.-(1) If the request for deletion or examination has been submitted by any other persons than the proprietor of the utility model, the Patent Authority shall, before deciding to maintain the utility model registration as amended, notify the parties to that effect and ask the proprietor of the utility model to submit his observations within 2 months, if he does not agree to the text on the basis of which the Patent Authority intends to maintain the utility model registration.

(2) If, after expiry of the time limit, the proprietor of the utility model proves to disagree with the text on the basis of which the Patent Authority intends to maintain the utility model registration, processing of the request may be continued. Otherwise, the proprietor shall be asked to pay the fee for publication of notice of the amendment within 1 month.

(3) The decision to maintain the utility model registration as amended shall state the text on the basis of which the utility model is maintained.

60.-(1) Publication of new utility model specifications with description, drawings or photos and utility model claims as amended shall be effected by the Patent Office and shall commence as soon as possible after payment of the fee for publication of notice of the amendment.

(2) Advertisement of the decision made in respect of a request under section 34, cf. section 36, of the Utility Models Act, shall also indicate the utility model proprietor's name or firm name, the date of filing and number of the application, the registration number and classes of the utility model, the title of the creation and the registration date of the utility model.

(3) An entry of the decision made in respect of a request under section 34 of the Utility Models Act shall be made in the Register of Utility Models.

Chapter XVI

Advertisements

61.- Advertisements shall be inserted in Dansk Brugsmodeltidende (the Danish Utility Model Gazette) issued by the Patent Office.

Chapter XVII

Spare parts and accessories for aircraft

62.- Notwithstanding a utility model registration, spare parts and accessories for aircraft may be imported into and used in this country for the repair of aircraft belonging to another State being a party to the Convention of 7 December 1944 on International Civil Aviation and either being a party to the Paris Convention for the Protection of Industrial Property of 20 March 1883 or having a utility model legislation which recognises creations made by nationals of another State which is a party to the first-mentioned Convention and protects such creations by a legislation which is in principle in conformity with the Paris Convention.

Chapter XVIII

Miscellaneous provisions

63.- When handling applications etc., the Patent Office may, when necessary, request the presentation of further material as documentation for filed requests, claims, etc.

Chapter XIX

Entry into force

64.-(1) This Order shall enter into force on 1st July 1998.

(2) At the same time Order No. 144 of 19th March 1996 is repealed.

The Danish Patent Office, July 19th, 1998

Mogens Kring

/Tina Madsen