

Republic of Costa Rica
Regulations of the Law on Patents for Inventions, Industrial Designs
and Utility Models

No.15222-MIEM-J

THE PRESIDENT OF THE REPUBLIC AND THE MINISTERS OF INDUSTRY, ENERGY
AND MINES AND OF JUSTICE AND PEACE

As amended by Decree No.38308 of February 12, 2014

TABLE OF CONTENTS

CHAPTER I General Provisions.

Article 1. Definitions.

Article 2. Printed Forms and Electronic Documents.

CHAPTER II Inventions.

Article 3. Definition of invention.

Article 4. Inventive Step.

Article 5. Contents of the patent application.

Article 6. Representation.

Article 7. Description of the Invention.

Article 8. Claims.

Article 9. Independent Claims and Dependent Claims.

Article 10. Abstract.

Article 11. Terminology and symbols used in the application.

Article 12. Right of Priority.

Article 13. Unity of the Invention.

Article 14. Withdrawal of the Application.

Article 15. Filing of the Application.

Article 16. Formal Defects.

Article 17. Publication of the Application.

Article 18. Opposition to the Grant of a Patent.

Article 19. Substantive Examination.

Article 20. Conversion of a Patent to a Utility Model.

Article 21. Information Related to Patent Applications.

Article 22. Granting of the Patent.

Article 22bis. Application for offsetting the validity of the patent term.

Article 23. Liaison with the Ministry of Health.

Article 24. Waiver of the Patent.

Article 25. Commencement of Industrial Exploitation.

Article 26. Import Authorization.
Article 27. Transfer, Change of Name of the Holder, and Patent License.
Article 28. Compulsory License for Industrial Exploitation.
Article 29. Expiration.
Article 30. Compulsory License in the Case of Dependent Patents.
Article 31. Public Utility Licenses.
Article 32. Invalidity.
Article 33. Consultation of Files and Notification of Decisions.

CHAPTER III Utility Models.

Article 34. Application of Provisions on Inventions.
Article 34bis. Duration of the registration of utility models.

CHAPTER IV Industrial Designs.

Article 35. Application of the provisions on inventions.
Article 36. Contents of the application for registration.
Article 37. Unity of the application.
Article 38. Requirements for graphic presentations of the design.
Article 39. Filing of the Application.
Article 40. Examination of the Application.
Article 40bis. Substantive Examination of the Application.
Article 41. Publication of the Application.
Article 42. Opposition to Registration.
Article 43. Registration of an Industrial Design.
Article 44. Registration of the industrial design; duration of registration.
Article 45. Transfer and licensing of the industrial design.

CHAPTER VI Fees.

Article 46. Fees for Patents
Article 47. Fees for utility models.
Article 48. Fees for industrial designs.
Article 49. Method of payment of fees.
Article 50. Effective upon publication.

CHAPTER I General Provisions.

Article 1. Definitions.

In these Regulations, the following definitions apply:

1. "Law": Law on Patents for Inventions, Industrial Designs and Utility Models, No.6867 of April 25, 1983.
2. "Registry": Industrial Property Registry, dependent on the National Registry.
3. "Substantive Examiner": A person experienced in the technological field to which the invention relates. Their level of knowledge is higher than that of the general public, but does not exceed that which can be expected of a duly qualified person.
4. "Technical Report": Opinion provided by the assigned substantive examiner, in order to determine, based on their knowledge, technical experience and experience in the area of industrial property, the novelty, inventive step, and industrial applicability of the invention in the case of patents and utility models; or the novelty, originality and independence of industrial designs.
5. "Substantive Examination": Process by which the Industrial Property Registry examines whether the application is eligible for protection, based on compliance with the requirements established by law. This process begins with the submission of the application to the assigned examiner and concludes with the resolution granting or rejecting the application.
6. "PCT": Patent Cooperation Treaty.

Article 2. Printed Forms and Electronic Documents.

1. The Registry may establish mandatory forms for the submission of applications and information related to applications, for notices published in the Official Gazette and for other procedures and actions that the Director of the Registry may determine through administrative instruction. It may also establish procedures and rules for the electronic submission of documents.
2. The Registry shall, to the extent possible, apply established international technical standards to ensure that documentation and information relating to industrial property can be effectively accessed.

CHAPTER II Inventions.

Article 3. Definition of invention.

1. A product invention may relate, among others, to any substance or material and to any goods, apparatus, machine, equipment, device, or other tangible object or result, as well as to any part thereof.

2. A process invention may relate, among others, to any sequence of steps, or to its parts and modalities, leading to the manufacture or obtaining of a product or result.

3. For the purposes of 4(c) of Article 1 of the Law, the definition of "microorganism" contained in the Biodiversity Law shall apply. Matters excluded from this definition shall not automatically be considered excluded from patentability, but must be subject to ordinary patentability examination, in accordance with the provisions established in the regulations in force on the matter.

Article 4. Inventive Step.

To determine whether the invention has a sufficient inventive step, each claim shall be compared with the prior art considered as a whole. For these purposes, a claim shall be compared not only with each element existing in the prior art, but also with those combinations or juxtapositions of elements that would be obvious or evident to a person ordinarily versed in the relevant technical subject matter.

Article 5. Contents of the patent application.

1. The patent application shall be submitted to the Registry and shall contain a request for the grant of the patent, the title of the invention, and information relating to the applicant, the inventor, and the representative, where applicable.

2. The title of the invention must:

(a) Be brief and make direct reference to the essence or subject matter of the invention.

(b) State whether the claimed invention relates to a process, a product, or both categories.

(c) Not contain proper names, fancy names, trademarks, or other designations that do not specifically refer to the substance of the invention.

3. With respect to the applicant, the application shall indicate the name, nationality, marital status, identity document number, and address of the applicant. When the applicant is a legal entity, the place of its incorporation and, where applicable, the place of its registration or incorporation and its address shall be indicated. In the case of a legal entity registered in Costa Rica, the legal entity identification number must also be indicated. When the applicant is represented by a representative or the representative is the inventor, this must be indicated in the application.

4. With respect to the inventor, unless the applicant is the inventor, the name, nationality, and address must be indicated. When there is more than one inventor, the information of all of them must be indicated.

5. When the applicant is not the inventor, the application must contain a declaration by the applicant indicating the title by which the right to the patent was acquired from the inventor, and the corresponding supporting document must be provided.

6. The application shall contain the name and means of receiving notifications, which may be via fax, telegram, email address, or a registered post box.

7. The application shall be accompanied by a description of the invention, the claims, the corresponding drawings, and an abstract, which shall be submitted in one printed copy and one digital copy. If the applicant so wishes, they may submit only the printed application and the remaining documentation in digital format. Proof of payment of the filing fee prescribed in Article 33(a) of the Law shall also be included.

8. The drawings accompanying the application must:

(a) Be of sufficient quality, clarity, and size to allow the details necessary for understanding and to allow the representation to be reproduced by scanning, photocopying, or printing.

(b) Be numbered, not exceed 15 by 15 centimeters, and contain no text, but only reference symbols corresponding to the description.

(c) They may consist of photographs of the object or product to be protected on a neutral, shadow-free background. Any photograph

submitted for these purposes must meet the requirements indicated in paragraphs a and b.

9. For the processing of applications filed under the Patent Cooperation Treaty, the applicant must:

(a) Provide a Spanish translation of the international application, as well as any amendments to the claims.

(b) Indicate the place and date of priority in accordance with the provisions of Article 12 of these Regulations.

(c) Indicate the number and date of the international application.

(d) Indicate that entry into the national phase is being requested, specifying the PCT Chapter under which the international phase was processed.

(e) When any of the requirements contemplated in the preceding paragraphs are omitted, the Registry will notify the applicant to correct it within two months from the notification of the corresponding prevention.

Article 6. Representation.

1. The appointment of an agent may be made in the application itself, by means of a power of attorney submitted with the application, or no later than fifteen business days after notification of the request for protection. If the power of attorney is not submitted within this period, the acts performed by the agent shall be deemed null and void.

2. When there are several applicants, one of them may be appointed as the common representative.

3. The power of attorney must be submitted in the original or a certified copy. If the original document has previously been filed with the Industrial Property Registry, the interested party may submit a simple copy of it, provided that the location of the original is indicated in the application.

4. When the action of an unofficial representative is admitted in accordance with the provisions of Articles 34 of the Law and 286 of the Civil Procedure Code, the interested party must ratify the actions taken within one month if the interested party is Costa Rican, or within three months if the interested party is a foreigner, in both cases from the date of submission of the

application, otherwise the application will be considered not submitted. The guarantee that the unofficial representative must present in order to respond for the outcome of the matter, if the interested party does not approve what was done on their behalf, must be constituted by means of a bond in favor of the State in the amount of three thousand colones (3,000.00). The representative must submit the respective bond with the application itself, otherwise the application will be considered not submitted.

Article 7. Description of the Invention.

1. The description shall indicate the title of the invention and must include the following information:

(a) Specify the technological sector to which the invention relates or to which it is applied.

(b) Indicate the prior technology known to the applicant that may be considered useful for understanding, searching for, and examining the invention, and identify the prior documents and publications in which said technology is described or reflected.

(c) Describe the invention in terms that allow for an understanding of the technical problem and the solution provided by the invention, and explain its advantages over prior technology.

(ch) Briefly describe the drawings, if applicable.

(d) Describe the best way envisioned by the applicant to execute or put the invention into practice, using examples where appropriate and references to the drawings.

(e) Explicitly indicate, when not evident from the description or the nature of the invention, the manner in which it is susceptible to industrial application and the manner in which it can be produced and used.

(f) Indicate under which generic names, international headings, or pharmaceutical common name established by the World Health Organization, as appropriate, the application has been filed or the invention is known in other countries, when this has been established.

2. The description shall be developed in the order indicated in paragraph 1, unless, due to the nature of the invention, a different method or order allows for a better understanding or a more economical representation.

Article 8. Claims.

1. When there is more than one claim, they shall be numbered consecutively.

2. The definition of the subject matter to be protected according to the claims must be based on the technical characteristics of the invention. The claims shall not contain examples or use relative or imprecise terms, unless such terms are precisely defined in the specification.

3. Except when the nature of the invention makes a different wording advisable, the claims shall contain:
 - (a) A preamble indicating the technical characteristics of the invention necessary for its definition, which combined form part of the state of the art.
 - (b) A characteristic section, preceded by the words "characterized in", "characterized by", "where the improvement comprises", or any other similar expression, concisely setting forth the technical characteristics that, together with those mentioned in paragraph a, are sought to be protected.

4. Except where absolutely necessary, the claims must not be based, with regard to the technical characteristics of the invention, on references to the description or drawings. In particular, references such as "as described in part... of the description" or "as illustrated in Figure... of the drawings" must be avoided.

5. When the application contains drawings, the technical characteristics mentioned in the claims may be followed by reference numbers to those characteristics illustrated in the drawings. Such reference numbers must appear in parentheses.

Article 9. Independent Claims and Dependent Claims.

1. A claim shall be considered an independent claim when it defines the protected subject matter without reference to a preceding claim included in the same application.

2. A claim shall be considered a dependent claim when it comprises or refers to any preceding claim. When a dependent claim refers to two or more preceding claims, it shall be considered a multiple dependent claim.

3. Every dependent claim must indicate, in its preamble, the number of the claim on which it is based, and in its characterizing section, it shall specify the additional feature, variation, modality, or alternative claimed.

4. A multiple dependent claim may only refer alternatively to the claims on which it is based and may not serve as the basis for another multiple dependent claim.

5. A dependent claim shall be understood and interpreted to include all the features and limitations contained in the claim on which it is based. A multiple dependent claim shall be understood and construed to include all features and limitations contained in the claim with which it is to be considered.

6. Dependent claims should be grouped as far as possible after the underlying claims.

Article 10. Abstract.

1. The abstract must be drafted in such a way that it can effectively serve as a search and retrieval tool for the technical information contained in the respective document and must be essentially limited to what the invention contributes as a novelty to the state of the art.

2. The abstract shall include:

(a) A abstract of what is disclosed in the description, claims, and drawings, which must indicate the technological sector to which the invention belongs and be drafted in such a way as to clearly understand the technological problem, the essence of the solution to that problem through the invention, and the principal use(s) of the invention.

(b) Where applicable, the chemical formula or drawing that best characterizes the invention.

3. The abstract shall include, among others, the following information taken from the description of the invention:

(a) In the case of chemical products or compounds: their identity, preparation, and use or application.

(b) In the case of chemical processes: their stages or steps, the

type of reaction, and the necessary reagents and conditions.

(c) In the case of machines, apparatus, or systems; their organization and operation.

(ch) In the case of products or goods; their manufacturing method.

(d) In the case of mixtures; their ingredients.

4. When the abstract contains a drawing, each technical characteristic mentioned in the abstract shall be followed by a reference number in parentheses referring to the characteristics illustrated in the drawing.

Article 11. Terminology and symbols used in the application.

1. In all documents contained in the patent application, units of weight and measurement shall be expressed according to the metric system, temperatures in degrees Celsius, and density in metric units.

2. For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulas and electrical units, the standards and requirements of international practice shall apply; for chemical formulas, the symbols, atomic weights, and molecular formulas in general use shall be used.

Article 12. Right of Priority.

1. Pursuant to Article 6(2) of the Law, the application must contain a declaration claiming priority over one or more earlier applications filed in another country. In this case, the Registry shall require the applicant to provide, within three months of notification, a copy of the earlier application, certified by the Industrial Property Office of the country where it was filed.

2. The declaration referred to in paragraph 1 must indicate:

(a) The date of the earlier application.

(b) The number of the earlier application, without prejudice to the provisions of paragraph 3.

(c) The International Patent Classification symbol assigned to the earlier application, without prejudice to the provisions of paragraph 4.

(ch) The name of the country in which the earlier application was filed.

(d) If the earlier application is a regional or international

application, the office with which it was filed.

3. If the application number is not known at the time of filing the declaration referred to in paragraph 1, it must be communicated within three months of filing the declaration.

4. If a symbol from the International Patent Classification has not been assigned to the previous application, even at the time of filing the declaration referred to in paragraph 1, the applicant must indicate this in the declaration.

5. The applicant may modify the content of the declaration referred to in paragraph 1 at any time before the patent is granted.

6. When the Industrial Property Registry finds that the requirements of this Article have not been met, it shall notify the applicant so that the applicant may make the necessary correction. If the applicant does not satisfy the requirements within fifteen working days from the date of notification, the declaration referred to in paragraph 4 shall be considered as not filed.

Article 13. Unity of the Invention.

1. For the purposes of determining the unity of the invention, such unity shall be deemed to exist even when the application contains independent claims from different categories, provided that said claims are linked and form part of the same inventive set or inventive concept. Unity of the invention shall be deemed to exist in applications containing independent claims in the following combinations, but this list is not exhaustive:

- (a) A product and a process for manufacturing said product.
- (b) A process and an apparatus or means for implementing said process.
- (c) A product, a process for manufacturing said product, and an apparatus or means for implementing said process.

2. The same application may include one or more dependent claims for each independent claim, provided that the conditions for unity of the invention are met as a whole.

Article 14. Withdrawal of the Application.

1. The application shall be withdrawn by written declaration

addressed to the Registry. When two or more applicants for the patent are present, the withdrawal of the application must be made jointly.

2. In the event of withdrawal of the application before publication, the applicant shall be entitled to a refund of 50% of the filing fee. Withdrawals made after publication shall not entitle the applicant to a refund of any fees paid.

Article 15. Filing of the Application.

1. The Registry shall accept a patent application only if it contains the following information and documents:

(a) The name and address of the applicant and the representative, if any.

(b) Proof of payment of the full fee prescribed in Article 33(a) of the Law.

(c) A document containing the description of the invention and the claims.

2. Upon admission of the application to the Registry, the date of submission, the application number, the number of pages comprising the application, the number of accompanying documents, and their nature shall be recorded.

3. In the case of manifestly unfounded applications that violate the requirements established in Articles 1 and 2 of the Law, the Registry shall reject them outright by means of a reasoned decision, granting a refund of 50% of the filing fee paid.

Article 16. Formal Defects.

If the correction or omission required by Article 9(2) of the law is not corrected, or if the respective power of attorney is not provided, the Registry will proceed to file the application by means of a reasoned resolution, which will be notified to the applicant, unless a duly justified extension for an equal period has been requested. If the application is filed, there will be no right to a refund of any fees paid.

Article 17. Publication of the Application.

1. If the application is deemed withdrawn due to nonpayment of publication fees, the Registry shall file it in the manner

prescribed in the preceding Article.

2. The notice published announcing the patent application shall be drafted by the Registry and shall contain:

- (a) The name, domicile, and address of the applicant.
- (b) The name and address of the representative, if any.
- (c) The name and address of the inventor.
- (ch) The national application number.
- (d) The filing date of the national application.
- (e) The symbol or symbols of the International Patent Classification corresponding to the invention, if indicated.
- (f) The title of the invention.
- (g) A abstract of the invention.
- (h) If the national application claims priority, the notice shall indicate the country, number, and filing date of the international application; Where applicable, it shall also indicate the date and number of the international publication.

3. Patent application files may be consulted for information purposes at the Registry offices during business hours.

4. Draft resolutions and other preliminary or internal documents prepared by examiners or other Registry officials shall not be considered part of the file open to the public for information purposes.

5. At the request of the applicant, the Registry shall postpone publication for the required period, which may not exceed twelve months from the date of filing of the application. Such a request may be submitted at any time before publication is ordered.

Article 18. Opposition to the Grant of a Patent.

1. The opposition filed against the grant of a patent shall contain:

- (a) The name, domicile, and address of the opponent.
- (b) The name and address of the representative, if any.
- (c) The number and date of filing of the application subject to the opposition and the title of the invention that is the subject of said application.
- (ch) The factual and legal grounds for the opposition.
- (d) Indication of the name and means of receiving notifications, which may be via fax, telegram, email address, or registry entry.

- (e) The opponent's signature, where applicable, duly authenticated by an attorney.
- (f) Any evidence relevant to support the grounds for the opposition.
- (g) Proof of payment of the opposition fee.
- (h) A set of copies of the opposition brief and other documents submitted.

2. The provisions of Article 6 regarding representation shall apply to the opposition, where applicable.

3. Supporting documents attached to the opposition that are in a language other than Spanish must be accompanied by a translation, except for those prepared in the international phase of a PCT application.

Article 19. Substantive Examination.

1. The reports prepared by the examiners must be completed within the period established for this purpose by the corresponding administrative guidelines. This period may be extended by agreement between the examiner and the patent office coordination, in accordance with the maximum period established by law, depending on the complexity of the matter.

Once the technical report has been submitted, the Industrial Property Registry will issue the corresponding resolution. The resolution may not exceed the legally established period for the completion of the substantive examination, which will be calculated from the date the application is submitted to the examiner for review.

2. When, during the substantive examination of an application, it is discovered that another patent application of an earlier date is pending, in which some subject matter is described or claimed that could invalidate, in whole or in part, the novelty of the claim in the application under examination, the Registry will suspend the examination of this application until the earlier application is resolved. Subject matter included in the description or claims of the patent granted based on the application of an earlier date shall be considered part of the prior art for the purposes of determining the novelty of any subsequent application.

3. The applicant may modify the claims at any time until receipt of

proof of payment of the fees corresponding to the substantive examination, provided that the provisions of Article 8(1) of the Law are observed. Should the applicant require modifications to the set of claims after verifying payment of the fees, they must justify their request and do so before the file is assigned to the substantive examiner. After the indicated deadline, the claims may only be amended to address an objection from the examiner, within the period established in Article 13(3) of the Law.

By amending applications or claims to correct defects, the original invention may not be expanded, in accordance with the provisions of Article 8(1) of the Law.

In the event of a division of the application, each fractional application will be organized as an independent file. The applicant must submit any duplicate or amended documents necessary to complete them, as well as proof of payment of the filing fee for each application.

4. Once the application is submitted for substantive examination, the examiner will use the Manual for the Organization and Examination of Patent Applications of the Industrial Property Offices of the Central American Isthmus and the Dominican Republic. In the initial phase, the examiner will assess the unity of the invention, clarity, and sufficiency, in accordance with the provisions of Articles 6 and 7 of the Law. If any deficiency is observed, a corresponding warning will be prepared, which must be responded to within one month of the respective notification. Before the expiration of this period, the applicant may arrange for a meeting with the substantive examiner and the patent office coordinator, or the official designated by the office, within the first fifteen business days following notification of the aforementioned warning, in order to facilitate the response to the warning. This meeting will be optional. If the Office deems it appropriate, it will promptly coordinate the requested meeting. When the observation notified to the applicant by the Registry is based on a lack of unity of invention, the applicant may divide his or her application into two or more divisional applications, which will be organized as independent files. The applicant must submit the necessary duplicate or amended documents to complete each divisional application and submit proof of payment of the filing fee for each of the divisional applications, less the amount of the fee paid for the initial application.

During the hearing, a record will be drawn up by an official of the Patent Office, which will become part of the file being processed.

5. In the event of a division of the application due to an objection based on a lack of unity of invention, the provisions of subsection three of paragraph 3 of this Article will apply to each of the divisional applications.

6. The substantive examiner must observe the provisions of Article 78 of the Biodiversity Law and, before issuing the technical report, must determine whether the pending application corresponds to an invention that involves access to biodiversity resources and elements in Costa Rican territory, in order to proceed in accordance with Article 8 of said Law.

7. Once the objections regarding unity of invention, clarity, and sufficiency have been overcome, in a second phase, the examiner will analyze the requirements established in Article 2 of the Law, namely novelty, inventive step, and industrial application. Once the technical report is completed and consists of a denial or partial grant of the submitted application, the administration will notify the applicant, and at the applicant's request, a hearing will be held with the substantive examiner and the coordination of the patent office, or the official designated by it, within the first fifteen business days following notification of the transfer of the technical report. This hearing will be optional. If the Office deems it appropriate, it will promptly coordinate the requested meeting. If there is any reason that prevents the hearing from taking place due to causes beyond the applicant's control and attributable to the examiner, the procedure will be suspended, in accordance with the provisions of Article 259 of the General Law on Public Administration, until the reasons preventing such proceedings cease, provided that this suspension does not exceed one month. Once the suspension is lifted, the requested hearing will be held, and the corresponding procedure will be ordered to continue. During the hearing, a Patent Office official will record the minutes, which will become part of the file being processed.

8. Once the statements have been made to the examiner, the examiner must respond within the maximum period indicated in paragraph 1 of this Article. Once the final opinion has been issued, the Industrial

Property Registry will proceed to issue the corresponding resolution, duly substantiated, based on the technical report and other documents included in the file. This resolution will be open to revocation and appeal, in accordance with the provisions of Article 26 of the Law on Procedures for Enforcement of Intellectual Property Rights, No.8039.

Article 20. Conversion of a Patent to a Utility Model.

1. When an application for a patent of invention is objected to on the grounds that the invention does not satisfy the inventive step requirement, the applicant may, within the period prescribed for responding to the Registry's objections, request that the application be converted into an application for registration of a utility model, where applicable, and that it be processed as such.

2. The conversion of an application for a patent of invention into an application for registration of a utility model shall not entitle the applicant to any refund of the filing fee paid for the application for a patent of invention.

Article 21. Information Related to Patent Applications.

1. The information and documentation that the applicant must provide to the Registry pursuant to Article 14 of the Law must be submitted within two months from the date of notification of the request.

2. The Registry may require a translation into Spanish of the information and documentation referred to in paragraph 1.

Article 22. Granting of the Patent.

1. The resolution granting the patent shall contain at least:

- (a) The name of the Registry.
- (b) The patent number.
- (c) The number and filing date of the patent application.
- (ch) The symbol or symbols of the International Patent Classification corresponding to the invention.
- (d) The name, address, and address of the patent holder.
- (e) The name and address of the inventor.
- (f) The name and address of the representative, if any.
- (g) The title of the invention.
- (h) The term of protection.
- (i) The approved claims; and

(j) The corresponding drawings.

2. The description and abstract shall be added to the resolution.

3. The interested party shall publish an abstract of the above resolution in the Official Gazette.

4. The patent grant certificate shall be signed by the Director of the Registry or by the official to whom the Director delegates such authority and shall include a copy of the grant resolution and a copy of the patent document.

Article 22bis. Application for offsetting the validity of the patent term.

The application for offsetting the validity of the patent term must contain:

(a) The name and other capacities of the patent holder, as well as of the representative, if any.

(b) The application number.

(c) The grant number.

(d) The date the application was filed.

(e) The date the application was published and any objections to it.

(f) The place or means of receiving notifications.

Article 23. Liaison with the Ministry of Health.

In order to assist in compliance with Article 16(4) of the Law, the Registry may allow the Ministry of Health, as well as other competent authorities, access to the information contained in the Patent database, using the manual and technological means deemed relevant, provided that the information is from already published applications.

Article 24. Waiver of the Patent.

1. The patent holder may waive one or more of the patent claims, or the entire patent, at any time, by means of a written declaration submitted to the Registry. When the patent holders are two or more persons, the waiver of the patent must be made jointly, unless otherwise agreed between the holders. The declaration of waiver of the patent submitted to the Registry shall contain:

(a) The name and address of the patent holder.

(b) The patent number.

(c) The title of the invention.

(ch) An indication of the scope of the waiver, specifying whether the waiver covers the entire patent or only one or more of its claims, and, in the latter case, the claim numbers of the claims being waived.

2. The waiver shall take effect upon publication, without prejudice to the provisions of paragraph 4.

3. The Registry shall note the waiver and order the waiving party to publish a notice in the Official Gazette. The notice published in the Official Gazette announcing the waiver of the patent shall contain the information indicated in subparagraphs a, b, c, and ch of paragraph 1 and shall also indicate the date of filing of the declaration of waiver with the Registry.

4. If the patent being waived is the subject of a compulsory license, the waiver shall only be admissible upon submission of a written declaration by the licensee consenting to the waiver, unless there are circumstances which, in the opinion of the Registry, justify admitting the waiver.

Article 25. Commencement of Industrial Exploitation.

1. When the patent holders are two or more persons, any of them may exploit the invention in the country, without the prior consent of the others being required, unless otherwise agreed between the holders.

2. For the purposes of Article 18 of the Law, cases in which a patent covers products or procedures that require obtaining a health registration for their exploitation and these have not been marketed in the country shall not be considered a lack of industrial exploitation, provided that:

(a) the health registration has not been obtained in their country of origin, or

(b) a health registration has been requested in the country and is being processed by the competent authority.

Article 26. Import Authorization.

1. The import authorization application referred to in Article 18(3) of the Law shall be submitted to the Foreign Trade Directorate of

the Ministry of Economy and Trade and shall contain:

- (a) The name, address, and postal address of the applicant.
- (b) The number of the patent protecting the product to be imported.
- (c) A precise indication of the type and volume or quantity of the products the applicant specifically wishes to import.
- (ch) The legal and factual grounds justifying the application, indicating in particular the unmet demand and, where applicable, which regions of the country will satisfy the demand through the importation of the protected product.

2. The application for import authorization shall be notified to the patent holder and any licensee registered in the Registry, who may submit their observations within one month from the date of notification.

3. The resolution granting an import authorization shall specify, as appropriate, the volume or quantity of the authorized import, the period of time during which the import is authorized, and the region to which the import will be destined. The resolution may establish any other limitations or conditions regarding the authorized import that may be necessary or justified in light of the circumstances of the case.

4. A copy of the resolution granting the import authorization shall be sent to the Registry.

Article 27. Transfer, Change of Name of the Holder, and Patent License.

1. Every patent license and every transfer or change of name of the holder relating to a patent application or a granted patent must be recorded in writing and registered in the Registry, which, in the case of published applications or granted patents, shall order the publication of a notice in the Official Gazette announcing the transfer, license of the patent, or change of name of the holder. The transfer, license, or change of name of the holder shall only have legal effect against third parties after it has been registered.

2. Every transfer, change of name of the holder, and license of the patent must be accompanied by the document supporting said application.

3. When the applicants or holders of the patent are two or more persons, each may separately transfer their rights or their share, but the conclusion of license agreements relating to the patent must be made jointly, unless otherwise agreed between the applicants or holders.

4. In the absence of a stipulation to the contrary, the license agreement shall be governed by the following rules:

(a) The license shall extend to all acts that the licensor is entitled to perform under the patent, without limitation in time, throughout the country and with respect to any application of the invention.

(b) The licensee may not transfer the license or grant sublicenses.

5. The notice published in the Official Gazette announcing the transfer, license, or change of name of the holder shall contain:

(a) The name, domicile, and address of the transferor, licensor, or holder.

(b) The name, domicile, and address of the acquirer, licensee, or new holder.

(c) The number of the patent or patent application.

(ch) The date of the grant of the patent or patent application.

(d) The title of the invention.

(e) The date and nature of the act or contract by which the transfer, license, or change of name was effected.

(f) Any limitation or special condition regarding the scope or extent of the transfer or license.

Article 28. Compulsory License for Industrial Exploitation.

1. The application for a compulsory license for the industrial exploitation of the patented invention shall contain:

(a) The name, domicile, and address of the applicant.

(b) The number of the patent for which the license is requested.

(c) The legal and factual grounds justifying the application, as well as any relevant reasons and circumstances.

(ch) Evidence that the applicant has the capacity to industrially exploit the patented invention, it being understood that such capacity may result from an agreement or contract signed by the applicant for the compulsory license with a third party under which the latter transfers to the applicant the technology necessary to

carry out such industrial exploitation.

(d) Evidence that the applicant for the compulsory license has previously requested a contractual license from the patent holder and has not been able to obtain it under reasonable conditions and within a reasonable timeframe.

2. The evidence referred to in (ch) may be provided in the application and submitted subsequently, within a period of three months from the date of filing the application. At the request of the interested party, this period may be prudently extended by the Registry. The application will be abandoned and ordered to be archived if the aforementioned evidence is not submitted within the prescribed period.

3. The application for a compulsory license shall be communicated to the patent holder and any licensee registered in the Registry, who may submit their observations within a period of thirty working days from the date of notification. At the request of an interested party, the period for submitting observations may be prudently extended by the Industrial Property Registry, where there are justified reasons.

4. At the request of any of the interested parties, or ex officio when it deems it appropriate to better resolve the matter, the Registry may convene a hearing of all interested parties in the procedure for granting the compulsory license. At this hearing, an attempt will be made to reach an agreement between the parties regarding all or some aspects of the license grant. The decision granting the compulsory license will incorporate those points on which agreement was reached during the hearing and will comply with existing regulations on technology transfer acts and contracts.

5. The revocation and modification of the compulsory license shall be subject, to the extent applicable, to the procedure established for granting the compulsory license.

6. The beneficiary of the compulsory license may waive it by means of a written declaration addressed to the Registry, which will register the waiver and notify it to the patent owner and the other parties to the licensing procedure. The waiver will take effect from the date of its receipt by the Registry.

Article 29. Expiration.

The Director of the Registry shall declare the expiration of patents ex-officio and publish the corresponding notice in the Official Gazette. Publication may be made through lists containing only the registration number, the patent title, and the expiration date. The request for publication must be made within six months of the declaration of expiration.

Article 30. Compulsory License in the Case of Dependent Patents.

1. The application for a compulsory license in the case of dependent patents shall be subject to the provisions of Article 28, as applicable.

2. The applicant shall indicate in his or her application the number of the patent or patents held by him or her and whose industrial exploitation requires the granting of a compulsory license.

3. The Registry shall examine the patents in question to determine the need to grant the requested license. The decision granting the license shall establish:

(a) The scope of the license, specifying in particular the claims subject to the license and the acts for which it is granted.

(b) The amount and terms of payment to be made by the licensee, such payment to be determined based on the scope of the license granted and the extent of the exploitation of the invention subject to the license.

(c) Other conditions and limitations that the Registry deems appropriate for the best exploitation of the inventions protected by the patents in question.

Article 31. Public Utility Licenses.

1. The Executive Branch decree authorizing the exploitation of the patented invention pursuant to Article 20 of the Law shall establish:

(a) The entity authorized to exploit the patented invention.

(b) The reasons of public interest justifying the authorization.

(c) The scope or extent of the authorized exploitation, specifying in particular the period for which the authorization is granted and the actions that may be performed with respect to the patented invention.

(ch) The amount and terms of payment to be made to the patent holder or any exclusive licensee of said patent, with said payment to be determined based on the extent of the exploitation of the invention subject to authorization.

(d) Any other conditions and limitations that the Executive Branch deems appropriate to establish with respect to the exploitation of the invention.

2. The provisions of Article 28(3) shall apply to public utility licenses, as appropriate. The procedure referred to therein need not have been completed for the authorization to be granted when, due to emergency circumstances, it is urgent to immediately dispose of the patented product.

Article 32. Invalidity.

When the grounds for invalidity indicated in Article 21 of the Law are only applicable to some of the claims or to some parts of a claim, the invalidity shall be declared only with respect to such claims or to such parts of the claim, as appropriate.

Article 33. Consultation of Files and Notification of Decisions.

Any patent application file shall be accessible to the public, except for unpublished applications, including those withdrawn before publication. Decisions issued by the Registry shall be notified to interested parties in accordance with the provisions established in the Law and the Regulations.

CHAPTER III Utility Models.

Article 34. Application of Provisions on Inventions.

1. The provisions contained in these Regulations relating to patents for inventions shall apply, as appropriate, to utility models.

2. The respective international classification shall apply to utility models.

Article 34bis. Duration of the registration of utility models.

The duration of the registration of utility models shall be counted from the date of filing the application with the Industrial Property Registry.

CHAPTER IV Industrial Designs.

Article 35. Application of the provisions on inventions.

The provisions contained in this Regulation relating to patents for inventions shall apply, as appropriate, to industrial designs, without prejudice to the provisions contained in this chapter.

Article 36. Contents of the application for registration.

1. The application for registration of an industrial design shall be addressed to the Registry and shall contain:

- (a) The name, domicile, and address of the applicant.
- (b) The name and address of the representative, if any.
- (c) The name and address of the creator of the industrial design, if not the applicant.
- (ch) A request for registration of the industrial design.
- (d) The precise indication of the type or types of objects or products to which the design will be applied.
- (e) The class or classes of the classification to which said objects or products belong.

2. The application must be accompanied by:

- (a) Five graphic representations of the industrial design, when only one class of the classification is covered, and an additional representation must be submitted for each additional class covered.
- (b) A abstract description of the industrial design, not exceeding one hundred words.
- (c) Proof of payment of the prescribed filing fee, in accordance with the number of classes covered.

Article 37. Unity of the application.

1. Each application shall refer to only one industrial design, but the same design may be registered for application to different objects or products included in one or more classes of the classification.

2. Those that differ only in minor details and are applied to different components or elements of a set or assembly of goods intended to be used together shall be considered the same industrial design.

Article 38. Requirements for graphic presentations of the design.

1. All graphic representations of the industrial design must be of sufficient quality, clarity, and dimensions to allow all its details to be appreciated and to allow the representation to be reproduced by photocopying and printing.

2. Graphic representations of the design shall not exceed 15 by 15 centimeters.

3. Graphic representations of the design may consist of industrial-type photographs of the object or product incorporating said design, presented on a neutral background without shadows. Any photograph submitted for these purposes must meet the requirements set forth in paragraphs 1 and 2.

4. The same object or product may be represented from different angles, and this may be shown on the same graphic or photographic representation, or on separate representations. In the latter case, the provisions of Article 36(2) (a) shall apply to each representation.

5. In the case of designs or models that apply to different components or elements of a set or assembly of Articles, the provisions of Article 36(2) (a) shall apply to the graphic or photographic representation of each of the components or elements.

Article 39. Filing of the Application.

1. The Registry shall not accept an application for registration of an industrial design if it does not contain at least the following information and documents:

(a) The name and address of the applicant or the representative, where applicable.

(b) An indication of the type or genre of objects or products to which the design will be applied.

(c) Proof of payment of the prescribed filing fee; and

(ch) A graphic representation of the design.

2. Upon accepting the application, the Registry shall record the filing date, the application number, the number of pages comprising the document and accompanying documents, as well as their nature.

Article 40. Examination of the Application.

When the Registry requires a correction or an omission to be corrected with respect to its application, the applicant must comply with the request within thirty business days. In case of non-compliance, the application will be archived.

Article 40bis. Substantive Examination of the Application.

1. In accordance with the provisions of Article 26 of the Law, an industrial design is considered new when it has not been publicly disclosed anywhere in the world by any means before the date of filing of the application with the Industrial Property Registry or, where applicable, before the date of filing of the application whose priority is claimed.

2. An industrial design shall be considered original as long as its external appearance derives from an individual creative effort of the creator and does not involve a new change in color or shape of already known models or drawings.

3. An industrial design shall be considered independent as long as it is not a copy or originates from the design made by another person.

Article 41. Publication of the Application.

The notice published in the Official Gazette announcing the application for registration shall contain:

- (a) The name, domicile, and address of the applicant.
- (b) The name and address of the representative, if any.
- (c) The name and address of the creator of the design or models.
- (ch) The application number.
- (d) The date of filing of the application.
- (e) The designation of the objects or products to which the design or model will be applied.
- (f) The class or classes of the classification to which said objects or products belong; and
- (g) A reproduction of the design or model, or of each of the models in the case provided for in Article 37(5).

Article 42. Opposition to Registration.

The provisions of Article 18 shall apply to any opposition filed against the registration of an industrial design, as applicable.

Article 43. Registration of an Industrial Design.

1. The notice of the registration of an industrial design published in the Official Gazette shall contain:

- (a) The number and date of the registration.
- (b) The term of protection.
- (c) The designation of the objects or products for which the design has been registered.
- (ch) The class or classes of the classification to which said objects or products belong.
- (d) The name, domicile, and address of the holder of the registered design; of its creator and of the representative, where applicable; and
- (e) A reproduction of the registered design.

2. The certificate of registration of the industrial design shall include a copy of the granting decision and a reproduction of the design. The registration certificate shall contain:

- (a) The name of the Registry.
- (b) The registration number and date.
- (c) The registration number and date of the decision on the registration.
- (ch) The name, address, and postal address of the holder.
- (d) The registration application number and date;
- (e) A reproduction of the registered design.

Article 44. Registration of the industrial design; duration of registration.

1. The registration of the industrial design in the register shall contain the information indicated in Article 43(1) the number and date of filing of the application, and include a reproduction of the registered design.

2. The duration of the registration of the industrial design shall be counted from the date of grant of the registration.

Article 45. Transfer and licensing of the industrial design.

The provisions of Article 27 shall apply to the transfer and licensing of rights relating to a registered industrial design, where applicable.

CHAPTER VI Fees.

Article 46. Fees for Patents

1. The payment of \$500 (five hundred US dollars) corresponding to the fee for registration and issuance of the respective certificate must be made only for applications submitted after the entry into force of Law No.8632.

2. The annual fees for maintaining the validity of the patent must be paid in advance. The fee payable for registration and issuance of the certificate exempts payment of the first annual fee. The second and subsequent annual fees owed from the filing of the application until the date of grant of the patent must be paid within a maximum period of two months from the date of grant. The due date for each annual fee will be the last day of the month commencing with the anniversary of the date of filing of the application. If payment is not made within the deadlines established in the preceding paragraph, a six-month grace period will be granted for payment of the annual fee, which will be made simultaneously with the payment of the surcharge established in section g) of Article 33 of the Law. Proof of payment for the annual fees must be submitted to the Registry so that payment can be recorded and duly documented in the patent registration. Payments of the annual fees will be noted in the margin of the patent registration, and each entry will indicate the amount paid and the annual period(s) to which the payment corresponds from the date on which payment was received. In the event of waiver, expiration, or declaration of nullity, there will be no right to reimbursement of fees or annuities paid in advance.

3. In the event of failure to timely pay the fee established in section f of Article 33 of the Law, the following procedure shall apply:

(a) The Director of the Registry shall certify the amount owed and forward the corresponding documentation to the Legal Department of the National Registry, which shall proceed to collect the corresponding amount. After the notifications established in Article 33bis, section 3 of the Law have been issued, the Director of the Registry shall certify the amount owed and forward the corresponding documentation to the Legal Department of the National Registry, which shall proceed to collect the corresponding amount.

(b) A marginal note on the patent shall indicate the non-payment,

which will result in the impossibility of processing licenses, transfers, and any other transactions during the validity of the note.

4. The Affidavit contemplated in Article 33 of the Law, which justifies payment of the 30% filing fee, may be made by means of a duly authenticated private document or a public deed.

Article 47. Fees for utility models.

The fees for utility models shall be as follows:

(a) Filing of the application, which includes processing, formal examination, registration, and issuance of the certificate: 75.00

(b) Each fractional application, including the fee: 75.00

(c) Opposition, including the fee: 30.00

(ch) Annual fees, corresponding to:

Second year: 30.00

Third year: 40.00

Fourth year: 50.00

Fifth year: 70.00

(d) Surcharge for payment within the grace period: 30% of the corresponding annual fee.

Article 48. Fees for industrial designs.

The fees for industrial designs shall be as follows:

(a) Filing of the application for each class covered: 75.00

(b) Opposition: 30.00

(c) Annual fees, corresponding to:

Second year: 30.00

Third year: 40.00

Fourth year: 55.00

Fifth year: 70.00

(ch) Surcharge for payment within the grace period: 30% of the corresponding annual fee.

Article 49. Method of payment of fees.

In accordance with Article 33 of the Law, the aforementioned fees must be paid with National Registry stamps or at the cashiers established by the Administrative Board of the National Registry.

Article 50. Effective upon publication.

Given at the Presidency of the Republic, San José, on the twelfth

day of December, nineteen hundred and eighty-three.