

TURKEY

Patent Regulations

as last amended on December 12, 1998

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PART I Object, Scope, Foundation and Definitions

Article 1 Object

The object of this Regulation is to protect the inventions by means of granting Patents or Utility Model Certificates in order to encourage the inventive activity, and contribute to the realization of technical, economic and social development.

Article 2 Scope

This Regulation encompasses the principles, the rules and the conditions for issuing Patents or Utility Model Certificates to inventions found to be appropriate for protection within the industrial property rights.

Article 3 Legal Foundation

These Regulations have been prepared under the provisions of the Decree-Law No 551 Pertaining to the Protection of Patent Rights, Paris Agreement and the Patent Cooperation Treaty.

Article 4 Definitions

For the purposes of this Regulation the following shall mean;

- a) Institute: Turkish Patent Institute,
- b) Decree-Law: The Decree-Law No 551 Pertaining to the Protection of Patent Rights dated 24.6.1995,
- c) Search Report: Search report on the state-of-the-art,
- d) Schedule of Fees: Schedule of Fees to be administered by the Turkish Patent Institute in accordance with Articles 6/f and 25 of the Decree-Law No 544,
- e) Paris Agreement: The Paris Convention for the Protection of Industrial Property of March 20, 1883,
- f) Bulletin: Official Patent Bulletin,
- g) Patent Cooperation Treaty: The Treaty establishing the international application system for patents that has been approved and acceded to with the Law No 4115 dated 7.7.1995,
- h) Preliminary Examination Report: The examination report prepared by the International Preliminary Examining Authority under the provisions of the Patent Cooperation Treaty.

PART II Formalities with Respect to Patents

SECTION I Patent Application and Physical Requirements

Article 5 Patent Application and Annexes

It is necessary to file an application with the following elements in order to obtain a patent:

- a) application petition,
- b) description specifying the invention,
- c) claim or claims with respect to the elements of the invention for which protection is requested,
- d) drawings referred to in the description, claim or claims,
- e) abstract,
- f) receipt for the payment of the application fee.

The amount of the application fee is indicated in the Schedule of Fees. For the validity of a patent application the application fee as prescribed in the Schedule of Fees must be paid at the time of filing the application or at the latest within seven days of the filing of the application without the obligation of any further notice. Where the application fee has not been paid within this period, the application shall be deemed to have been withdrawn. Under such circumstances, the application shall be deemed not to have had any validity from the outset.

The fee for requesting a one month extension for the filing, at the Institute or at the receiving office authorized by the Institute, of the Turkish translations of the description, claim or claims and the abstract submitted as specified in the Article 42 of the Decree-Law in English or French or German shall be prescribed in the Schedule of Fees. An additional three month extension period may also be requested for the filing of the Turkish translations. The request for the additional extension period is to be filed with the filing of the application or before the first extension period of one month expires, and the fee prescribed in the Schedule of Fees is to be paid with the request. In the case of failure to file the Turkish translations within the specified period and the non-payment of the fee as prescribed in the Schedule of Fees the application shall be rejected. The rejected application shall be deemed not to have had any validity from the outset.

A 3 month extension shall be allowed in addition to the 20 and 30 months specified under Articles 22 and 39 of the Patent Cooperation Treaty for the filing of applications. For applications filed within the extension period the application fee prescribed in the Schedule of Fees shall be paid with a 50% surcharge.

Article 6 According a Filing Date

Patent application shall be accorded a filing date as of the date, hour and minute when the elements specified in subparagraphs (a), (b), (c), (d), and (e) of the first paragraph of Article 5 of these Regulations have been deposited at the Institute or at the office authorized by the Institute.

Article 7 Application Petition

The application petition samples of which are hereby attached as Annexes 1 and 2 of this Regulation shall contain the following:

- a) title of the invention,
- b) information concerning the applicant or the applicants: name, nationality, address, postal code, telephone number, fax number, country,
- c) if an agent is appointed, information concerning the agent: name, nationality, address, postal code, telephone number, fax number, country,
- d) reference number of the applicant or the agent,
- e) if priority is claimed, information with respect to the application on which the priority is based: country of the application, the date and the number,
- f) information concerning the inventor: name, nationality, address,
- g) where the applicant is not the inventor, declaration concerning how the right to apply has been obtained,
- h) where the application is related to an earlier dated patent or a utility model application or a Patent or Utility Model Certificate, information concerning the earlier application or the Certificate: date, number, divisional application, patent of addition,
- i) number of the pages of the description, the abstract and the drawings, number of the claims,
- j) the date and the signature of the applicant or the agent,
- k) class(s) code(s) under the international classification.

Article 8 Description

Description must be drafted explicitly and in sufficient detail that would enable a person skilled in the related technical field of the subject matter to carry out the invention. All of elements of the invention subjected to patent is to be disclosed without concealing anything. The description does cover the following sections:

- a) title of the invention: The description shall be headed with the title of the invention as indicated in the petition. Title of the invention describes the invention and does not contain terms in the nature of a trademark. Preferably it is made up of between 2 to 7 words,

b) the technical field to which the invention relates and the state-of-the-art: It states the technical field to which the invention relates. Both local and international similar inventions are described in detail in order to enable the examination, searching and understanding of the invention. Furthermore, it describes in detail the differences between the invention for which protection is sought and the other patents granted in other countries to enable comparisons by referring to the relevant literature. The state-of-the-art is described insofar as it is known to the applicant that would be useful in the examination, search and understanding of the invention, and preferably documents relating to the prior art are indicated,

c) technical problems to be solved by the invention: The technical problem or problems intended to be solved by the invention are described. This section discloses the technical problem and its solution in a comprehensible manner even if not explicitly referred to as a technical problem, and it states, if any, the advantages of the invention by referring to the state-of-the-art,

d) explanation of the drawings: If any, each drawing is explained briefly, the numbers and the titles of all the parts as shown in the drawings are described,

e) explanation of the invention: In this section the invention is described by referring, if any, to the drawings. While describing the parts and their functions, the numbers relating to the figures are indicated in parentheses. In this section the invention is disclosed in detail such a way without leaving any doubt and without leading to any misunderstandings.

None of the information concerning the workings, operation and other technical features should be withheld from disclosure. Everything concerning the invention for which the protection is sought is disclosed very extensively in order to realize a widespread dissemination of the information with respect to the invention.

f) the mode of invention's industrial application: This section describes the manner in which the invention is to be exploited and utilized in the industry.

Article 9 Claim or claims

An application may contain one or more claims. Claim or claims define the elements of the invention for which the protection is sought.

Every claim should be clear and concise. Claim or claims are based on the description. Claim or claims cannot extend beyond the contents of the invention as it is disclosed in the description.

Claims are formulated in sufficient number to indicate the elements of the invention in detail taking into consideration the principle inventive idea. The claims are numbered consecutively.

In the claims, invention cannot be defined as a desired objective to be attained.

Claims cannot be explained by relying on references to the description and the drawings, and cannot be designated by references such "as described in the part of the description" or "as shown in figures of the drawings".

Where the application contains drawings, the technical characteristics mentioned in the claims shall be followed by marks referring to these technical features. When marks are used, they shall be given in parentheses. In an independent claim all of the principle features of the invention must be stated.

An independent claim may be followed by one or more dependent claims where necessary in order to indicate clearly the technical attributes of the invention.

A dependent claim must contain all of the features of the claim it depends upon. If possible, a reference should be made to the independent claim at the beginning when starting to state the depending claims and the supplementary features desired to be protected should be described. All dependent claims, referring to an earlier claim or claims, should be grouped as much as practically possible.

Claim or claims shall contain a section which describes the technical features of the invention which are necessary for the definition of the claimed subject matter, but which when in combination with the section that describes in a concise manner the technical features described for protection, by utilizing such words as "characterized by", "characteristic of".

The last page of the claims is to be signed and dated by the applicant or by the applicant's agent.

Article 10 Drawings

Where the description of the machine, equipment, product or the process which is the subject matter of the invention requires drawings, such drawings shall be prepared as described below.

Flow charts and diagrams are accepted as drawings.

Drawings shall not contain any text, however when it is indispensable for clarification a single word or words such as water, steam, open, closed, AB section, or short expressions as in the case of electric circuits, block diagrams or flow charts may be used to enhance the understanding.

Figures, important parts and sections are numbered consecutively in the sequence as they appear in the description.

Unless it is essential with respect to the invention measures are not given on the drawings. In exceptional cases where the measurements are given technical drawing rules shall be followed.

Drawings shall be rendered in permanent black ink with well defined lines and dense and dark strokes without using any colours.

Cross sections shall be depicted with slanted lines which should not impair the visibility of the reference signs and the main lines of the figure. The scale of the drawings and the clarity of their manner of depiction shall be such to enable all details to be distinguished without difficulty even when the photographic reproduction of the drawing is reduced to a two-thirds size.

All lines in the drawings are to be drawn with the use of drawing instruments. The height of the numbers and letters can not be less than 0.32 cm. When lettering the drawings, with respect to their technical fields Latin and Greek alphabets shall be used.

A single page may contain several figures. Where a single complete figure is made up of the figures depicted on two or more pages, the figures on the several sheets shall be arranged so that the complete figure can be assembled by bringing the sheets together without concealing any part of any one of the figures appearing on different sheets.

The different figures on a page or pages shall be presented clearly separated from one another preferably in an upright position and without leaving empty space. Where the figures are not placed in an upright position, they shall be presented sideways with the top of the figures being placed at the left side of the sheet.

Reference signs which are not used in the description shall not be mentioned in the drawings, and reference signs which are not used in the drawings can not be mentioned in the description.

Where reference signs are used, the same features shall be denoted by the same reference signs throughout the application.

Where a large number of reference signs are used in the drawings, a separate sheet shall be attached, to be placed after the descriptions and before the claims, listing all of the reference signs and the features denoted by these signs.

The total number of drawing pages and the relevant page number shall appear on each page of the drawings.

Each page of the drawing is to be signed and dated by the applicant or by the applicant's agent.

The applicant shall indicate in the petition the number of the drawing

that will be published with the abstract and which is not part of the prior art.

Article 11 The Abstract

The abstract serves only the purpose of supplying technical information. It cannot be used for other purposes, and can not in particular be used for the interpretation of the scope of the protection sought. The abstract cannot in particular be used for defining the scope of protection and the state-of-the-art.

The abstract shall contain the basic elements as disclosed in the description, the claims and if any the drawings, and shall denote the technical field to which the invention relates. It gives a clear understanding of the technical problem, the essence of the solution of the problem to which the invention aims at and the principle use or uses of the invention.

Where it is necessary, the chemical formula which best characterizes the invention among all of the formulae contained in the application, shall be stated in the abstract.

The abstract shall be brief and concise as much as the disclosure enables. Preferably it shall be between 50 to 100 words.

The abstract shall not contain declarations on the supposed merits or the value of the claimed invention or of the speculative applications. Each important technical characteristic mentioned in the abstract and depicted by a drawing shall be followed by a reference sign, and this sign shall be placed between parentheses.

Article 12 Document Evidencing the Payment of the Application Fees

The application fee and the duty must be paid on the application date or latest within seven days of the application date without the need of any further notice and the original receipt evidencing the payment of the relevant duty and fee has to be lodged at the Institute.

Article 13 Priority Documents

Where a priority has been claimed, a copy of the priority document obtained from the country of the receiving office of the earlier application giving rise to the priority and the Turkish translation of the section containing the identifications must be lodged at the filing of the application or within three months of the filing date of the application.

Where the documents as referred hereabove are not lodged within the prescribed period the application shall be processed as having no priority.

Article 14 Terminology and Signs

The following terminology and signs shall be used in an application. A consistent use shall be made of the terminology and signs:

- a) units of weights and measures shall be expressed in metric system or if first expressed in a different system shall also at the same time be expressed in the metric system,
- b) temperatures shall be expressed in Celsius degrees or if first expressed in a different system shall also at the same time be expressed in Celsius,
- c) the international rules shall be followed in using indications for heat, energy, light, sound and magnetism, and also for mathematical formulae and electrical units. For the chemical formulae, the atomic weight, molecular formulae and symbols in general use shall be utilized,
- d) as a rule only the generally accepted technical terms, signs and symbols should be used.

Article 15 Unity of Invention

Those applications which do not comply with the provisions of the first paragraph of Article 45 of the Decree-Law, upon the request of the Institute shall be divided into separate applications.

Institute shall allow the applicant six months for making the necessary alterations.

Article 16 Divided Applications

Each separate application stemming from an application divided in accordance with Article 15, conditional to staying within the scope of the original application, shall be accorded the filing date as of the filing date of the original application. Where a priority has been claimed, the priority right shall extend to the divided applications.

Applicant of a divided application, shall request from the Institute on the filing date of the application that the state-of-the-art search should be carried out, and shall pay the fee as prescribed in the Circular of Fees within three months of the request date.

Where the applicant does not request the state-of-the-art search or fails to pay the search fee in accordance with this article, the application shall be considered to have been withdrawn.

Article 17 Convention Priority

Priority rights on the basis of the Paris Convention can be enjoyed only upon request.

The twelve month period for claiming priority shall start from the date of filing of the first application, the day of filing is not included

in this period.

If the last day of the period is an official holiday in Turkey or has coincided with a day when the Institute is closed for receiving applications, the period shall be extended until the end of the working hours of the next day.

SECTION II Physical Characteristics of the Documents to be Submitted at Filing

Article 18 Number of Copies

The documents to be submitted to the Institute shall be filed as:

- a) application petition, one copy,
- b) description, three copies,
- c) claim or claims, three copies,
- d) drawings, three copies,
- e) abstract, three copies.

Article 19 Fitness for Reproduction

All elements of the application, namely the application petition, the description, the claim or claims, the drawings and the abstract shall be presented in such a manner that would allow direct reproduction of multiple copies by photography, electrostatic processes, photo offset and microfilming.

The sheets shall not be folded and shall be free of holes and creases. Only one side of each sheet shall be used.

Each element of the application, namely the description, the claim or claims, the drawings and the abstract shall start on a new page.

All sheets of the application shall be bound together in such a way that would allow easy perusal and also allow for easy separation and rejoining of the sheets for reproduction purposes.

Article 20 Size of the Sheets

All the elements of the application, namely the application petition, the description, the claim or claims, the drawings and the abstract shall be prepared on A4 (29.7 cm X 21 cm) size sheets.

Article 21 Margins

The minimum margins of the sheets containing the description, the claim or claims and the abstract shall be 2 cm from the top, 2.5 cm from the left, 2.5 cm from the right and 2 cm from the bottom; the recommended maximum margins shall be 4 cm from the top, 4 cm from the left, 3 cm from

the right and 2 cm from the bottom.

For the sheets containing the drawings, the usable space shall not exceed 26.2 cm x 17.0 cm. The sheets shall not contain frames around the usable or used surface area. Minimum margins are 2.5 cm from the top, 2.5 cm from the left, 1.5 cm from the right and 1.0 cm from the bottom.

Article 22 Numbering of Pages

All pages of the elements of the application shall be numbered in consecutive numerals in the order of the description, the claim or claims and the abstract.

The numbers shall be centered either at the top or the bottom of the sheet, and shall not be placed outside the margin.

Article 23 Numbering of Lines

Every fifth line of each sheet of the description and each sheet of the claims shall be numbered. The numbers shall be placed in the right half of the left margin.

Article 24 Writing of the Text

The application petition, the description, the claims and the abstract shall be typed or printed by a computer.

When necessary only graphic symbols and characters, chemical or mathematical formulae, certain characters of the Chinese and the Japanese language may be written by hand or drawn.

The text shall be typed or printed in 1.5 spacing.

All of the contents of the text shall be typed in a dark permanent color, using characters the capital letters of which are not to be less than 0.21 cm high.

Article 25 Drawings, Formulae and Tables Contained in the Text

The application petition, the description, the claims and the abstract shall not contain drawings.

The application petition, the description, the claims and the abstract may contain chemical or mathematical formulae.

The description and the abstract may contain tables; claim or claims may contain tables only if it is helpful with respect to the subject matter of the claim.

If the tables and chemical or mathematical formulae cannot be satisfactorily placed in an upright position on the sheet, they may be placed sideways on the sheet. On pages where the tables and chemical or mathematical formulae are presented sideways, placing is to be done such

that the tops of the tables or formulae are at the left side of the sheet.

SECTION III

Article 26 Examination of the Application as to Compliance with the Formal Requirements

Upon the filing date of an application becoming final, the Institute shall examine the application as to compliance with respect to formal requirements as specified in Articles from 42 to 52 of the Decree-Law and Articles 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of this Regulation, and with respect to physical characteristics as specified in Articles from 18 to 25.

The Institute shall examine the subject matter of the application with respect to compliance with Articles 6 and 10 of the Decree-Law to determine whether or not it is in the scope of non-patentable subjects and inventions, and whether it is exploitable in industry. Where, the Institute finds that the application clearly and without doubt lacks novelty or lacks features of industrial applicability the applicant is allowed three months for submitting his observations.

The Institute after reviewing the opinions of the applicant shall come to a final decision. Where the decision is negative, the Institute shall reject the application and submit the justifications of the reasonings for rejection.

Where the examination reveals that within the provisions of Article 53 of the Decree-Law the application has deficiencies with respect to formal requirements or that the subject of the invention is in the scope of non-patentable inventions, the examination is suspended and the applicant is requested to remedy the deficiencies or to submit his objections to the Institute within three months.

The applicant, at this stage of the procedures, may amend the claim or the claims or divide the application into further divisional applications. The Institute shall reject the application in total or in part with respect to claim or claims where the objection to the Institute's decision on non-patentability has not been accepted or the deficiencies have not been remedied in conformity with the provisions of this Regulation.

Where at the end of the examination under the provisions of this Article, no deficiency is found with respect to formal requirements or that the deficiencies have been remedied within the provisions of this Regulation, the applicant shall be notified according to the provisions of the third paragraph of Article 56 of the Decree-Law that a request should be filed for the execution of the state-of-the-art search, unless such request

had not been filed earlier, within one month of the receipt of the Institute's notice.

Where during the examination of the patent application, the invention for which patent is requested undergoes partial or total changes, the filing date shall become the date on which such changes are filed.

Article 27 Publication of the Application

The Institute shall publish the application in the Bulletin at the end of the 18th month period from the filing date or if priority is claimed from the date of priority.

The published applications are periodically announced in the Bulletin. The publication shall contain the following elements:

- a) application date and number,
- b) the applicant's name, nationality and residential address,
- c) the name, nationality and address of the inventor,
- d) if appointed, the name and address of the agent,
- e) title of the invention,
- f) the country, date and number of the priority,
- g) class(es) code(s) of the invention,
- h) abstract,
- i) description,
- j) claim or claims
- k) drawings.

Article 28 Request for Carrying out the State-of-the-art Search

The applicant shall request from the Institute, within 15 months of the filing date of the application or of priority date if priority is claimed, that the state-of-the-art search should be carried out, and shall pay the prescribed fee in the Circular of Fees within three months of the request date.

Where the period specified in the first paragraph of this Article has expired at the time of the notification provisioned in the sixth paragraph of Article 54 of the Decree-Law, the applicant shall file the request for search on state-of-the-art and pay the fee prescribed in the Schedule of Fees within one month of the receipt of the notification.

Where the applicant does not file the request for search on the state-of-the-art as provisioned in this Article or does not pay the relevant fee the application shall be deemed to have been withdrawn.

A request for search on the state-of-the-art with respect to a patent-of-addition application may be filed only if such request is filed simultaneously with the filing of the request for the main patent

application or that a search has been carried out or request has been filed with respect to the previous patent-of-addition applications. The provisions from the first to the fourth paragraphs of this Article shall also apply with respect to patent-of-addition.

Article 29 Inability of Conducting the Search Report due to Insufficiency

If the insufficiency of the description or the claim or claims, has resulted in the inability of drafting the search report, three months shall be allowed for remedying the insufficiency. Where the insufficiency is not remedied within these periods the application shall be rejected. In case of partial insufficiency, the search report shall be prepared for the claim or claims which are sufficient enough.

Article 30 Observations within the System for Granting Patents Without Examination

Third parties, within six months of the publication of the search report as provisioned in Article 60 of the Decree-Law, may submit their observations to the Institute with the following particulars cited herewith:

- a) the date and number of the bulletin in which the related application has been published,
- b) documents evidencing the observations,
- c) the name and address of the party submitting the observation.

Article 31 Oppositions within the System for Granting Patents with Examination

Third parties, in accordance with Article 62 of the Decree-Law may submit their objections to the search report within six months of the publication of the search report. The following particulars cited herewith shall be enclosed with the opposition:

- a) the date and number of the bulletin in which the related application has been published,
- b) documents evidencing the opposition,
- c) the name and address of the party submitting the opposition.

Article 32 Request for Examination and the Payment of Fees

Upon the publication of the search report in accordance with the provisions of Article 57 of the Decree-Law and within the 6 month period of the publication date, the applicant shall file, in order to obtain a patent with examination, a request at the Institute for the substantive examination as to determining that the invention being sufficiently defined

is a novel invention and involves an inventive step.

Before the commencement of the examination, the third party opposition period of six months has to expire, and the fee prescribed in the Circular of Fees should be paid. The examination fee may be paid anytime within the period as specified above. Where the request for examination has not been made or the fee has not been paid the application shall be evaluated and processed within the system for granting of patents without examination.

Article 33 Converting a Patent Application into an Application for a Utility Model

The applicant, subject to complying with the following conditions, may request that the subject matter of the application be protected by the grant of a utility model certificate:

a) the request, under the system of granting patent without examination, may be filed latest by the termination of the period specified in the first paragraph of Article 60 of the Decree-Law for the submission of observations concerning the search report,

b) the request, under the system of granting patent with examination, may be filed until the expiry of the periods specified in the fourth paragraph of Article 62 of the Decree-Law for the filing of observations or objections submitted in response to the examination conducted by the Institute. The protection afforded, as a result of the conversion, to the subject matter of a patent application within the scope of utility model certificate shall be valid as of the filing date of the first application or if priority has been claimed as of the date of priority.

The Institute, following the examination concluded in accordance with Article 54 of the Decree-Law and Article 26 of this Regulation, may propose the applicant to consider converting the patent application into an application for a utility model certificate. The applicant is free either to accept or to reject this proposal. Where the applicant does not respond to the Institute's proposal of change with a request of conversion, the proposal shall be deemed to have been rejected. In such a case, the proceedings with respect to processing the subject of application, shall continue within the framework of patent granting procedures.

Where the applicant requests a conversion for obtaining a utility model certificate instead of a patent, the applicant shall be notified that the application shall be processed as being converted into a utility model application and shall be requested that the necessary documents to be submitted thereof. The applicant shall be allowed three months for the filing of such documents.

Where the applicant fails to submit the documents requested within the prescribed period, the request for conversion shall be deemed not to have been made and the application shall be processed as a patent application. The Institute's decision, reached subsequent to the publication of the application, shall also be published in the bulletin.

Article 34 Inspection of the Patent Application Files

The file relating to a patent application or a patent may be inspected after the publication of the application within the constraints and under the surveillance of the Institute personnel as specified below:

- a) inspection may only be done within the premises of the Institute,
- b) inspection may not extend to the Institute's internal communications,
- c) the identities of the third parties who have requested inspections may not be revealed,
- d) inspection may not extend to documents and communications related with the compulsory licenses and employee's inventions,
- e) the identities of those inquiring to find out whether the annual fees have been paid are not revealed,
- f) the identities of the requesting parties and the contents of their requests for inspection of the patent application or patent files may not be revealed.

PART III Patent Application and Transactions upon Patents

Article 35 Contractual License

The right to exploit a patent application or a patent may be subject to licensing valid for a part or whole of the territory within the national boundaries.

An application with the following particulars have to be filed at the Institute for the recording of the license contract in the Patent Register:

- a) a petition,
- b) license contract signed by the parties, signatures of which to be authenticated,
- c) the original patent certificate or a request for a certified copy of patent if the original certificate cannot be submitted,
- d) document evidencing that the official duty and the fee prescribed in the Schedule of Fees have been paid,
- e) power of attorney.

The fee specified in the Schedule of Fees have to be paid before the recording of the license contract in the Patent Register.

Article 36 Offer for Licensing by the Proprietor of the Patent

Where the proprietor of a patent is not making use of the patent in accordance with the provisions of Article 96 of the Decree-Law, he or she may apply in writing to the Institute declaring his offer to grant a license to those interested in exploiting the invention.

Where a change of ownership has occurred due to a legal action in accordance with Article 12 of the Decree-Law, the previous offer for licensing shall be deemed to be withdrawn with the recording of the new patent holder in the Patent Register.

The Institute shall record the offers of licenses in the Patent Register and publish such offers. The fee prescribed in the Schedule of Fees have to be paid before such offers can be recorded in the Patent Register. The offers for licensing are open to public inspection. The Institute shall take the necessary measures to enable such inspections.

The owner of the patent may withdraw his offer at any time provided that no request has been made to the proprietor of the patent. The withdrawal shall have effect as of the date the request for withdrawal is filed at the Institute.

Where the offer for licensing has been recorded in the Patent Register as an exclusive license, the owner of the patent may not make additional offers to other parties.

Anybody entitled to use the invention under a license obtained from an

offer for licensing shall be considered to be holding a nonexclusive license, and a license granted under the provisions of this Article shall legally be considered as a contractual license.

A request, made after the filing of the offer for licensing, to record an exclusive license in the Patent Register shall not be accepted provided that the offer for licensing has been withdrawn or that the withdrawal has been accepted.

Article 37 Transferring a Patent Application or a Patent Right

A patent application or a patent right may be transferred to another party. An application with the following particulars has to be filed at the Institute for the recording of the transfer in the Patent Register:

- a) a petition,
- b) the transfer contract signed by both the assignee and the assignor, and the signatures are to be authenticated,
- c) the original patent certificate or a request for a certified copy of patent if the original certificate cannot be submitted,
- d) document evidencing that the official duty and the fee prescribed in the Schedule of Fees have been paid,
- e) power of attorney.

The fee specified in the Schedule of Fees have to be paid before the recording of the transfer in the Patent Register.

Article 38 Inheritance or placing in security of a Patent Application or a Patent Right

A patent application or a patent right may be subject to inheritance or may be placed as security.

An application with the following particulars has to be filed at the Institute for recording in the Patent Register the assignment due to inheritance or the particulars of security.

- a) recording of assignment due to inheritance:
 - 1) a petition,
 - 2) court decision concerning the inheritance,
 - 3) the original patent certificate or a request for a certified copy of patent if the original certificate cannot be submitted,
 - 4) document evidencing that the official duty and the fee prescribed in the Schedule of Fees have been paid,
 - 5) power of attorney (if applicable).
- b) recording of the placement of security:
 - 1) a petition,
 - 2) security contract,

- 3) the original patent certificate or a request for a certified copy of patent if the original certificate cannot be submitted,
- 4) document evidencing that the fee has been paid.

The fee specified in the Schedule of Fees must be paid before the recording of the assignment due to inheritance or the placement of security.

Article 39 Obligation to use

The owner of the patent or the person authorized by him is obligated to use the patent.

The obligation to use must be realized by exploiting the invention within three years from the date of the publication in the related bulletin of the announcement concerning the awarding of the patent.

The market conditions shall be taken into consideration in the assessment of use. Technical or economic or legal reasons of objective nature such as licensing, compliance with standards, new implementations which may have become necessary in different areas shall be accepted as valid excuses for the inability of putting the patent to use. These reasons accepted to be as obstacles for using the patented invention are those reasons which are beyond the will and control of the proprietor of the patent. Information and documents with respect to the legitimate reasons for the inability of using/working the patent shall be submitted by the proprietor of the patent to the Institute for recording in the Patent Register within three years from the publication date in the relevant bulletin of the issuance of the patent. The fee as prescribed in the Schedule of Fees has to be paid for such recording.

Article 40 Evidencing of Use

An official document prepared by the owner of the patent or by the person authorized by him, shall contain a declaration on the exploitation of the patent to evidence the use before the Institute, and shall be certified by the relevant professional organizations, chambers of trade or industry or other related institutions. In case of imports, the import certificate shall constitute as the certificate of use.

No further authentication shall be required of the certification as described in the first paragraph.

The certificate of use shall contain, the date and number of the patent, the title of the invention, the date on which the use has started, the name, address and the signature of the person making the declaration, and the date of issue.

The certificate of use and the import certificate shall be recorded in the Patent Register. The fee specified in the Schedule of Fees must be

paid before the recording.

Article 41 The Fee on Requesting the Institute's Mediation

The fee concerning the request for mediation as provided in the second paragraph of Article 104 of the Decree-Law, shall be determined by the Institute separately in each case within the framework of the evaluation parameters with respect to the characteristics, the demands and the allegations of the application.

Article 42 The Amount of the Guarantee

The amount of the guarantee as provisioned in subparagraph 3 of the second paragraph of Article 107, shall be determined by the Institute separately in each case within the framework of the evaluation parameters with respect to the characteristics, the demands and the allegations of the application.

Article 43 The Request for Compulsory Licensing and the Amount of the Guarantee

The amount of the guarantee as provisioned in subparagraph (b) of the third paragraph of Article 108, shall be determined by the Institute separately in each case within the framework of the evaluation parameters with respect to the characteristics, the demands and the allegations of the application.

Article 44 Change of Title or of Address

Where title or the address of the proprietor of a patent application or of a patent has changed, for the recording of the change in the Patent Register an application with the following particulars have to be filed at the Institute.

a) recording of the change in title:

- 1) a petition,
- 2) the document evidencing the change of title,
- 3) the original patent certificate or a request for a certified copy of patent if the original certificate cannot be submitted,
- 4) document evidencing that the official duty and the fee prescribed in the Schedule of Fees have been paid,
- 5) power of attorney.

b) recording of the change of address:

- 1) a petition,
- 2) the document evidencing the change of address,
- 3) the original patent certificate or a request for a certified copy of patent if the original certificate cannot be submitted,

- 4) document evidencing that the official duty and the fee prescribed in the Schedule of Fees have been paid,
- 5) power of attorney.

The fee specified in the Schedule of Fees must be paid before recording in the Patent Register of the changes in the title or in the address.

Article 45 Certified Copy

Certified copies of the patents may be requested by the patent holder or by the third parties. For this purpose the fee specified in the Schedule of Fees have to be paid.

Article 46 Recording in the Patent Register and the Effects

The applications and the patents are recorded in the Patent Register including the following particulars:

- a) the number of the application,
- b) the number of the patent,
- c) the application date, hour and minute,
- d) the publication date,
- e) the number of the publication,
- f) the date of issue of the patent,
- g) the name, nationality and residence of the applicant or the patent holder,
- h) title of the invention,
- i) the class(es) code(s) of the invention,
- j) the date, the country and the number of priority,
- k) the number of the claims, number of pages of the description and the drawings,
- l) the period of protection,
- m) the certificate of use,
- n) annual fees,
- o) transfer, licensing, change of title or address, assignment, execution and other similar voluntary or compulsory acts.
- p) summary in Turkish.

The rights arising from a patent application or a patent may not be invoked against third parties until they are duly recorded in the Patent Register.

Article 47 Periods for the Payment of Fees and the Effects

The fees prescribed in the Schedule of Fees with respect to a patent application and a patent shall be paid by the applicant or by the holder of the patent or by the agent.

The payment periods with respect to the fees to be paid as prescribed

in the Schedule of Fees shall be notified in advance by the Institute to the applicant or to the holder of the patent or to the agent.

Where a fee with respect to a specific procedure has not been paid within the period as specified in this Regulation, that procedure shall be deemed to have not produced any effect and outcome as of the date of notification by the Institute to the applicant.

Where the fees with respect to procedures for granting of a patent have not been paid within the periods as specified in this Regulation, the patent application shall be deemed to have been withdrawn.

Article 48 Annual Fees

The annual fees as prescribed in the Schedule of Fees and required for the protection of the patent application or of a patent shall be paid each year in advance at maturity during the full term of the protection period. The maturity date is the day and the month of the application date.

Where the annual fees have not been paid within the period as specified in the first paragraph of this Regulation, they may be paid within the following six month period of maturity provided that an additional fee as prescribed in the Schedule of Fees have been paid.

Where the annual fees have not been paid within the periods as specified in the second paragraph of this Article, the patent right shall expire as of the last date for the payment of this fee.

PART IV Applications for Utility Model Certificates

Article 49 Examination of the Application as to Compliance with Formal Requirements and Publication

Upon the filing date of an application for a utility model certificate becoming final, the Institute shall examine the application as to the compliance with respect to formal requirements as specified in Articles from 42 to 52 of the Decree-Law and the Articles 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of this Regulation, and with respect to physical characteristics as specified in Articles from 18 to 25.

Where the examination with respect to the formal requirements reveals a deficiency and that the subject matter of the application is not in the scope of the provisions of Articles 154 and 155 of the Decree-Law, the processing of the application is suspended. The applicant is informed of the Institute's decision and is requested to remedy the deficiencies or to submit his objections to the Institute within three months of the notification of the decision. Where the deficiencies are not remedied or that changes in the claim or claims are not made or that objections are not filed within this period the application shall be deemed to have been withdrawn.

The Institute after reviewing the opinions of the applicant and of the changes if any, shall come to a final decision. The Institute's final decision may be for issuing a utility model certificate with respect to all or part of the claims.

Where at the end of the examination with respect to formal requirements no deficiency is found or that the deficiencies have been remedied, the Institute shall inform the applicant its decision with respect to the continuation of the procedures, and the application is opened to public inspection by publishing of the description, the claim or claims, and if available drawings in accordance with the provisions of Article 27 of this Regulation. An announcement is published within the form and conditions as specified in Article 27 of this Regulation.

Article 50 Institute's Decision, Issuance of the Utility Model Certificate and Publication

Where the applicant has filed his observation with regard to the oppositions, or having undertaken the necessary changes or on the lapsing of the period allowed for placing observations with regard to the oppositions, the Institute shall decide whether or not to grant the utility model certificate without taking into consideration the oppositions filed by the third parties, and shall notify the applicant of its decision and request the

payment of the fee specified in the Circular of Fees within three months. Where the fee has not been paid within three months of the notification or that a further three month period has not been requested, the utility model certificate shall not be issued and the application shall be deemed to have been withdrawn.

Article 51 Applicability of Provisions Pertaining to Patents for Utility Model Certificates

Where specific provisions pertaining to utility models are lacking, the provisions pertaining to patents shall apply also for the utility models provided that such provisions are not irreconcilable with the characteristics of the utility model certificates.

The time limits afforded for the issuance of utility model certificates shall also apply for the issuance of patent with examination and without examination.

PART V Last Provisions

Article 52 Provisions Repealed

The Implementing Regulations Pertaining to the Industrial Property Provisions published in the Official Gazette No 9109 dated 21 September 1955 have hereby been repealed.

Transitional Article 1 Applications of Previous Provisions

With respect to the applications filed before the entry into force of the Decree-Law, the provisions of the law in force at the date of filing shall prevail.

The provisions of the Decree-Law shall have effect for all procedures related with transfer, inheritance and licensing actions without prejudice to all rights acquired and recorded in the Register prior to the entry into force of the Decree-Law.

The provisions of Articles 96, 97 and 98 of the Decree-Law concerning the obligation of use and the article 72 concerning the patent period shall have effect equally for the patents granted before the entry into force of the Decree-Law.

The accumulated fees and duties with respect to patent applications filed before the entry into force of the Decree-Law shall be paid at their maturity after the entry into force of this Regulation without the requirement of any further notification by the Institute.

Transitional Article 2 The Unpaid Fees and Deficient Documents

Deficient documents and the fees which have not been paid during the period before coming into force of the Implementing Regulation relating to the Decree-Law No 551 and Circular on the Schedule of Fees to be administered by the Turkish Patent Institute in accordance with Articles 6/f and 25 of the Decree-Law No 544 Pertaining to The Establishment and the Functions of the Turkish Patent Institute, shall be remedied within two months of the coming into force of the Circular.

Transitional Article 3 Payment of the Annual Fees

Patents or utility model certificates having lapsed due to nonpayment of fees and duties, shall regain their validity upon payment within the six months period from the date of the notification of the Institute concerning the accumulated fees of the past years plus an additional fee in double the value of the due fees accumulated.

Transitional Article 4 Search Reports

Until such time that the Institute establishes the organization capable of performing the state-of-the-art searches, the search work required to be undertaken in accordance with the Decree-Law shall be performed by the search institutions having international credentials.

The search reports that have been prepared by the International Searching Authorities classified as competent under the Patent Cooperation Treaty or by other authorities with which the Institute has arranged a protocol for cooperation with respect to an application or applications which are the basis of priority for an application filed in Turkey shall be acceptable for processing by the Institute.

The fee prescribed in the Circular of Fees for processing by the Institute of the search reports prepared by the relevant institutions shall be payable to the Institute with the filing of the report.

Where the reports have been prepared in a foreign language other than the English language, the Turkish Translation shall also be filed with the report.

Article 53 Entry into Force

This Regulation shall enter into force on the date of publication.

Article 54 Execution

The provisions of this Regulation shall be executed by the President of the Turkish Patent Institute.