

**UKRAINE**  
**Patent Rules**

as amended by Resolution of the Ministry of Education and Science No.  
223 of April 14, 2005

TABLE OF CONTENTS

RULES ON DRAFTING AND FILING AN APPLICATION FOR THE GRANT OF A PATENT  
OF UKRAINE FOR AN INVENTION AND UTILITY MODEL

1. General Provisions
2. Invention and Utility Model as Objects of Protection
3. Requirements to documents
4. General requirements to the content of the application documents
5. Request for the grant of a patent
6. Description of the invention (utility model)
7. Claims
8. Drawings
9. Abstract
10. Requirements to the application relating to a device
11. Requirements to the application relating to a substance
12. Requirements to an application relating to a strain of micro-organism,  
plant or animal cell culture
13. Requirements to an application relating to a process (method)
14. Requirements to an application relating to a new use of a known product  
or process
15. Requirements to an application for a utility model
16. Filing of an application
17. Requirements to an application for a secret invention (utility model)
18. Filing of an international application

# **RULES ON DRAFTING AND FILING AN APPLICATION FOR THE GRANT OF A PATENT OF UKRAINE FOR AN INVENTION AND UTILITY MODEL**

## **1. General Provisions**

1.1. These Rules have been developed pursuant to the Law of Ukraine "On the Protection of Rights to Inventions and Utility Model" (hereinafter the Law), the Paris Convention for the Protection of Industrial Property of March 20, 1883 which is valid in the territory of Ukraine as from December 25, 1991, the Patent Cooperation Treaty signed on June 19, 1970, which is valid in the territory of Ukraine as from December 25, 1991, and set forth the requirements to the documents of an application for an invention (secret invention) and a utility model (secret utility model).

(indent one of paragraph 1.1, section 1, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

The requirements of the rules shall be binding for applicants.

## 1.2. The list of definitions and abbreviations

WIPO - the World Intellectual Property Organization

Treaty - the Patent Cooperation Treaty

Invention (utility model) - a result of human's intellectual activity in any field of technology

(paragraph 1.2, section 1 was supplemented with the new indent four under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004; therefore indents forth - thirteenth must be considered to be respectively indents five - fourteen)

Application - a set of documents required for the grant by the Institution of a patent of Ukraine for an invention or a patent of Ukraine for a utility model

(indent five of paragraph 1.2, section 1, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

Applicant - a person who has filed an application or has acquired the rights of the applicant according to another procedure provided for by the law

(indent six of paragraph 1.2, section 1, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

Instruction - PCT Administrative Instruction

International application - an application filed under the Treaty

IPC - International Patent Classification

Person - natural person or legal entity

Representative - a representative in the matters of intellectual property registered under the provisions of the Regulations on Representatives in the Matters of Intellectual Property (Patent Attorneys), implemented by the Resolution No. 545 of the Cabinet of Ukraine of 10 August 1994, or another authorized person.

(indent eleven of paragraph 1.2, section 1, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

Secret invention (secret utility model) - an invention (utility model) comprising information classified as the state secret

Ukrpatent - State Enterprise "Ukrainian Industrial Property Institute" of the Ministry of Education and Science of Ukraine, the body authorized by the Institution to process applications and carry out examination  
Institution - Ministry of Education and Science of Ukraine

## **2. Invention and Utility Model as Objects of Protection**

(title of the section two as amended under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

2.1. Under Article 1 of the Law, an invention (utility model) is a result of human's intellectual activity in any field of technology.

(section 2 was supplemented with the new paragraph 2.1 under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

2.2. Under part 1 of Article 6 of the Law, legal protection shall be granted in respect of an invention (utility model) which is not contrary to the public interest, to human and moral principles, and which satisfies the requirements set forth by Article 7 of the Law.

2.2.1. An invention is patentable if it is new, involves an inventive step and is industrially applicable.

2.2.2. A utility model is patentable if it is new and industrially applicable.

(section 2 was supplemented with the new paragraph 2.2 under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

2.3. Under part 2 of Article 6 of the Law, the subject matter of an invention (utility model) protected under the Law may be constituted by:

- a product;
- a process (method), as well as use of a previously known product or process.

For the purpose of filing an application, a product or process are deemed known if it has been disclosed in any information source, including any application for an invention (utility model), in particular in the application being filed.

2.3.1. A product as a technological object is a material object which results from human's activity. Such product is, in particular, a device, mechanism, system (complex) of connected devices, structure, article, substance, strain of microorganism, plant or animal cell culture and other biological material, including transgenic plants and animals.

2.3.2. Process as a technological object is an action or multiple actions

performed over products and other material objects with the use of at least one product and directed to the achievement of a certain technical effect. Such process is, in particular, manufacturing, processing, treatment of a product and its quality control, transformation of a substance, energy, data, measuring parameters, diagnosing, treating, managing a technological process.

(section 2 was supplemented with the new paragraph 2.3 under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

2.4. Under part 3 of Article 6 of the Law, protection shall not be granted to the following technological objects:

plant and animal varieties;

biological methods of reproduction of plants and animals, which do not belong to non-biological and microbiological processes;

topographies of integrated circuits;

results of an artistic design;

(section 2 was supplemented with the new paragraph 2.4 under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

2.5. The following objects may not constitute an invention (utility model) per se in the meaning of paragraph 1.2 of these Rules:

discoveries, scientific theories and mathematical methods;

methods of intellectual, economic, organisational and commercial activity (planning, financing, supplying, accounting, crediting, forecasting, rationing, etc.);

rules for performing physical exercises, games, contests, auctions;

projects and schemes of building plans, plans of territories;

convention signs (road signs, routes, codes, fonts, etc.), schedules, instructions;

computer programmes;

types of representation of information (for example, in the form of a table, diagram, graph, with the aid of acoustic signals, pronouncing words, visual demonstrations, books, audio and video discs).

(section 2 was supplemented with the new paragraph 2.5 under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

2.6. Under paragraph 4 of Article 12 of the Law, an application for a patent for an invention shall relate to one invention only or to a group

of inventions so linked as to form a single inventive concept (the requirement of unity of invention).

2.6.1. Unity of invention exists in a group of invention where there is a technical relation among the claimed inventions involving one or more of the same or corresponding special technical features defining the contribution which each of the inventions, considered as a whole, makes over the prior art.

2.6.2. Ascertainment whether a group of inventions is so linked as to form a single inventive concept shall be made irrespective of whether these inventions are claimed in separate claims or as an alternative within one claim.

2.6.3. The requirement of unity of invention is satisfied when:

- the application relates to one invention, namely one product, process (method), including new use of a previously known product or process; (indent two of paragraph 2.6.3, section 2, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)
- the application relates to one invention characterised by the development or improvement of its certain embodiments, which development or improvement do not involve substitution or elimination of certain features included in an independent claim;
- the application relates to a group of inventions so linked as to form a single inventive concept.

The requirement of unity of invention is satisfied by a group of inventions where the application in particular relates to:

- inventions, one of which is adapted for obtaining (manufacturing) of the other, for example an apparatus or substance and a process for obtaining (manufacturing) of the said apparatus or substance as a whole or of its part;

(indent six of paragraph 2.6.3, section 2, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

- inventions, one of which is adapted for carrying out of the other, for example a process and an apparatus for carrying out the said process as a whole, or of one of its steps;

(indent seven of paragraph 2.6.3, section 2, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

- inventions, one of which is adapted for use of the other (in the other), for example, a process or an apparatus and its part; a process and substance for the use in the said process; new use of a known apparatus or substance and a process for their new indication; new use of an apparatus or a substance and an apparatus or a composition comprising them, etc.;

(indent eight of paragraph 2.6.3, section 2, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

- inventions which are subject matters of the same type, having one and the same intended purpose and which provide attaining of one and the same technical effect (variants).

2.7. The requirement of unity of utility model is satisfied when:

- the application relates to one utility model, namely it relates to one product, process (method), including new use of a known product or process;

(indent three of paragraph 2.7, section 2, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

- the application relates to one utility model characterised by the development or improvement of its certain embodiments, which development or improvement do not involve substitution or elimination of certain features included in an independent claim.

### **3. Requirements to documents**

3.1. An application shall contain:

- a request for the grant of a patent of Ukraine for an invention (utility model);

(indent three of paragraph 3.1, section 3, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

- description of the invention (utility model);
- claims;
- drawings (if referred to in the description);
- abstract.

### **3.2. Requirements to application documents**

3.2.1. The application documents, namely a request for the grant of a patent, description and claims, drawings and abstract shall be furnished in triplicate. The document to be further translated may be filed in the original language in one copy, and their translation shall be filed in triplicate.

3.2.2. All documents of the application for the grant of a patent for an invention (utility model) shall be made in such a way that they could be stored within a long period of time and reproduced in an unlimited number of copies.

3.2.3. The application documents shall be printed on white paper sheets of 210 x 297 mm format. Each document shall commence from a new page, the second and subsequent pages of each document being numbered in Arabic numerals.

Each sheet shall contain print on one side only, and the lines on it shall be placed in parallel to the shorter side of the sheet.

The minimum margins of the sheets containing the description, claims and abstract shall be, mm:

Left side - 25;

Top - 20

Right side and bottom - 20

The drawings shall be made on white paper sheets of the 210 x 297 mm format. The minimum margins of the sheets containing the drawings shall be as follows, mm:

Left side - 25;

Top - 25;



Right side - 10;  
Bottom - 15.

3.2.4. All documents shall be printed in black. The typing in the text of the description of an invention (utility model), claims and abstract shall be 2-spaced, or 1,5-spaced in the case of computer print-out with the characters being not less than 2,1 mm high.

(paragraph 3.2.4, section 3, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

3.2.5. Latin names, Latin and Greek characters, graphic symbols, mathematical and chemical formulae may be written in black ink, paste, drawing ink.

3.2.6. Bibliographic particulars of information sources in the application documents shall be referred to so that these information sources might be readily found.

### 3.3. Graphic representations

3.3.1. Graphic representations (drawings themselves, schemes, diagrams) shall be executed in accordance with the requirements to the drawings, in particular they shall be made in black clear non-erasable lines and strokes, and shall be presented on heavyweight white smooth paper having no shading and colourings.

3.3.2. The scale of the drawings and the distinctness of their graphical representation shall be such that a reproduction of the drawing with a 1/3 reduction in size would make all details being clearly visible. The height of numbers and letters shall be not less than 3,2 mm. Numeral and literal symbols shall be clear, their line width shall correspond to that of the lines on the drawing itself. The numeral and letter symbols shall not be enclosed in brackets.

3.3.3. Preferably orthogonal projections (different views, sections and profiles) shall be used in the drawings, and in some cases axonometric projection may be acceptable.

Each element of each figure shall be proportional relative to the other elements in the figure, except where for the sake of more clear representation of the element the proportions must be different.

3.3.4. Dimensions shall not be indicated in the drawings, if necessary, they shall be mentioned in the description.

The drawings shall not contain any inscriptions, except for the case where words like "water", "steam", "open", "closed", "section A-A" are necessary.

3.3.5. Separate figures shall be placed so that sheets were filled to the maximum and might be read in an upright position.

Where figures placed on two or more sheets constitute parts of a single drawing, they shall be so arranged that the drawing could be combined without any omission of any of the figures appearing on various sheets. Several figures may be presented on one sheet and shall be clearly separated from each other.

3.3.6. Reference signs of the drawings shall be indicated in Arabic numerals according to references to them in the description of the invention (utility model). The same numerals shall be used to indicate the same elements on several figures.

Reference signs not mentioned in the description of an invention (utility model) shall not appear in the drawings, and vice versa.

(indent two of paragraph 3.3.6, section 3, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

3.3.7. If graphical representations are presented as schemes, the standard conventional signs shall be used on them.

If a scheme consists of rectangles that serve as graphical representations of elements, if possible, besides the numeral signs, names of elements should be inscribed in corresponding rectangles. If the size of a rectangle makes it impossible to do so, the name of the element shall be given on an extension line (if necessary, as an inscription under this element). The schemes of one type may comprise representation of elements used on schemes of other types (for example, an electric circuit may comprise representation of elements of kinematical, hydraulic schemes, etc.)

3.3.8. Each graphical representation shall be numbered in Arabic numerals consecutively (fig. 1, fig. 2, etc.) irrespective of the type of representation (drawing, scheme, diagram, etc.) and independently of the numbering of the sheets of the description. If the description of an invention (utility model) is illustrated by one graphical representation, it shall have no numeration.

(paragraph 3.3.8, section 3, as revised under the Resolution No. 154 of

the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

### 3.4. Chemical formulae

An application may contain chemical formulae.

Structural formulae of chemical compounds shall be numbered as separate figures (in the same way as the drawings) and shall be accompanied by references to corresponding symbols used in them.

In the chemical structural formulae, the common chemical symbols for elements shall be used, and the bonds between elements and radicals shall be clearly marked.

### 3.5. Mathematical formulae and symbols

The description of an invention (utility model), claims and abstract may comprise mathematical expressions (formulae) and symbols.

The form of representation of a mathematical expression is optional.

All letter symbols used in mathematical formulae shall be interpreted.

The interpretation of the letter symbols shall be made in the same order as they are used in the formula.

Intervals between values may be indicated by "-" (from and to), in other cases it shall be expressed in words "from" and "to".

If the value is given in percentage, the symbol of percent (%) shall be put after the digit. If there are a few values mentioned, the symbol of percent shall be put before their list and separated by colon.

Mathematical symbols ">", "<", "=" and others shall be used in mathematical formulae only, while in the description they shall be expressed in words (more, less, equal to, etc.).

Division of the mathematical formulae is possible only at a mathematical character.

Interpretation of the mathematical formula shall be given in a column, and each line shall be separated by semicolon.

3.6. Requirements to the execution of the application documents set forth by the Rules shall be applied to any materials filed after the application filing date, for example to the amended sheets and claims in the application for an invention (utility model).

(paragraph 3.6, section 3, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

#### **4. General requirements to the content of the application documents**

4.1. The application shall be drafted in the Ukrainian language.

If the description of the invention (utility model) and claims are in another language, to maintain the filing date their translation shall be filed to the Ukrpatent within two months after the filing date.

4.2. The application documents shall not contain expressions, drawings, pictures, photographs and any other materials which are contrary to the public order, to human and moral principles, derogatory statements with regard to inventions (utility models) and results of activity of other persons, as well as information and materials which are not directly related or necessary to determine whether the application documents meet the requirements of the Rules.

(paragraph 4.2, section 4, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

4.3. As a rule, in the description, claims, abstract and explanatory materials supplementing the description standard terms and abbreviations are used, and where they are absent, the terms and abbreviations generally used in scientific and technical literature.

Where the text contains the terms or symbols which are not generally used, their meaning shall be explained upon their first mention in the text. All conventional signs shall be explained.

4.4. The description of the invention (utility model), claims and abstract shall meet the requirements of unity of terms, namely the same features in the said documents shall have the same names. The requirement of unity of terms is also applied to conventional signs and physical units used in the application documents.

If necessary, the title of the invention (utility model) may contain Latin characters and digits. Characters of other alphabets and special signs shall not be used in the title.

(indent two of paragraph 4.4, section 4, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

All physical units shall be preferably indicated according to the International System of Units.

## **5. Request for the grant of a patent**

5.1. The request for the grant of a patent of Ukraine for an invention (utility model) shall be made in the Ukrainian language according to the form presented in Appendix 1 of the Rules. Where the particulars cannot be completely included in corresponding boxes for the lack of space, they shall be presented on a separate sheet according to the same form and the note "see on the separate sheet" shall be made in the corresponding box.

(paragraph 5.1, section 5, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

5.2. In the box situated at the top of the request form (without a code), the applicant shall indicate his application reference number. At the same time, such particulars as the "filing date" shall be filled in by Ukrpatent upon the receipt of the application.

(section 5 was supplemented with paragraph 5.2 under the Resolution No. 223 of the Ministry of Education and Science of Ukraine, dated 14 April, 2005; therefore paragraphs 5.2 - 5.15 shall respectively be considered as paragraphs 5.3 - 5.16)

5.3. Boxes (21), (22) on the top of the request form shall not be filled by the applicant, they are meant to include particulars of the application after it has been filed to the Institution.

5.4. Paragraph 5.4 of section 5 was deleted.

(under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

5.5. Boxes (86) and (87) are filled in the case of acceptance of the international application designating Ukraine for examination. Under code (86) the registration number and filing date of the international application accorded by the Receiving Office are indicated. In the box under code (87) one shall note the international publication number and date.

(paragraph 5.5, section 5, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

5.6. In the box containing the request to grant a patent of Ukraine, it is necessary to indicate what kind of patent is sought by the applicant by marking the corresponding box with X.

Under code (71), full name and address shall be indicated for natural

persons; and full name (according to foundation documents) and domicile for legal entities.

If the inventor, several inventors or all inventors act as the applicant, their addresses shall be indicated on the reverse side of the request form under code (72).

Full name or denomination of a foreign person shall be transliterated (transcription characters of a certain language shall be indicated in characters of the Ukrainian alphabet). After the Ukrainian transliteration, the name shall be given in the original language in brackets. The place of residence or domicile of the applicant (if necessary) shall be indicated in the original language with indication of the state code in accordance with the WIPO Standard ST.3.

If the applicant is a Ukrainian legal entity, one shall indicate the code according to the Common State Register of Enterprises and Organisations of Ukraine (CSREOU). If the applicant resides or domiciles outside Ukraine, the state codes shall be indicated according to the WIPO Standard ST. 3.

If there are several applicants in the application, the said particulars shall be indicated for each person individually.

5.7. If the applicant is entitled to benefit from the right of priority from a previous application under Article 15 of the Law, the corresponding box shall be marked by X and the number and filing date of the previous application shall be indicated. The particulars of the previous application filed in the state, party to the Paris Convention, shall be given under codes (31), (32), (33). Under code (33), the code of the state where the previous application was filed shall be indicated as provided for by the WIPO Standard ST. 3. The particulars of the previous application filed to the Institution shall be mentioned under code (66). The particulars of the previous application from which the present application has been divided shall be mentioned under code (62). If there are several previous applications, the particulars of each application shall be mentioned. Particulars of the application supplementary materials of which have been made according to the requirements of paragraph 7, Article 16 of the Law as this application shall be provided under code (62).

(paragraph 5.7, section 5, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

5.8. Under code (54), the full title of the invention (group of inventions) or utility model shall be indicated, which title shall be the same as the title mentioned in the description.

5.9. Under code (98), the address for correspondence between the applicant and Ukrpatent and full name or denomination of the addressee shall be indicated. Any address in the territory of Ukraine which is convenient for the applicant may be used for correspondence. Telephone, facsimile or other means of communication (if available) shall be indicated.

5.10. If the applicant uses services of an agent, under code (74) full name and registration number of the intellectual property agent or another authorised person shall be indicated.

(paragraph 5.10, section 5, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

5.11. If the applicant wishes to accelerate publication of the application, the corresponding box shall be marked with "X".

5.12. The section of the request form "The list of enclosed documents" shall be filled in by marking corresponding boxes with X, indicating the number of copies and sheets in each document. In the box "Other documents" (if any other documents are present in the request), the names of the documents shall be mentioned.

(paragraph 5.12, section 5, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

5.13. If the right to file an application is transferred by an inventor or employer to an assignee, the corresponding ground shall be marked by X in the box "Grounds for acquisition of the right to file an application and obtain a patent". If the applicant (s) is a sole inventor or all inventors, this box shall not be filled in.

5.14. Under code (72), the particulars of the inventor (inventors), namely full name and domicile, shall be given. For foreign inventors, their full name shall be transliterated (the transcription symbols of a particular language are conveyed through letters of the Ukrainian alphabet) and an original name spelling shall be given in brackets. Instead of domicile, the name of the state and its two-letter code shall be indicated according to the WIPO Standard ST.3. If the inventors are applicants, they shall put their signatures in the right box.

5.15. If the applicant (applicants) does/do not wish to be mentioned in the publication of the particulars of the application or mention of grant of a patent, the corresponding box of the request form shall contain the

statement which must be signed by the inventor (inventors) who does/do not wish to be mentioned.

5.16. The last box of the request form "Signature(s) of the applicant(s)" is compulsory to fill in, except for the case where all applicants are inventors and their signatures have been put in the box under code (72). If the applicant is a legal entity, the request shall be signed by an authorised person. The signature shall include full name of the position held by the person who signs the request, personal signature, his/her initials and family name. The signature shall be sealed. A personal signature may be autographic, printed (in the form of a computer printed copy) or facsimile.

(indent two, paragraph 5.16, section 5, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

If the applicant has authorised his representative to prosecute the case, the latter may sign the application instead of the applicant.

(indent three, paragraph 5.16, section 5, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

The same box shall include the date of signing.

If supplementary data are given on a separate sheet, this sheet shall be signed in the same way.



## **6. Description of the invention (utility model)**

### **6.1. Purpose of the description**

The description shall disclose the invention (utility model) in a complete and clear way so that it could be carried out by a person skilled in the art.

The description shall be made as provided for by the Rules.

### **6.2. Structure of the description**

6.2.1. The description shall commence with the indication of the corresponding class of the current IPC, to which the invention (utility model) belongs, title of the invention and it shall consist of the following sections:

Field of the invention (utility model)

Prior art

Disclosure of the invention (utility model)

Description of the drawings (if the description contains references to them)

Modes for carrying out the invention (utility model).

6.2.2 For the purpose of better understanding of summarised disclosure, the sections of the description or their parts may be presented in an order different from the above-mentioned if this is required by the character of the invention (utility model).

(paragraph 6.2.2, section 6, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

6.2.3 Any section of the description or its part can not be substituted with a reference to a source containing necessary information, even if it is the description of an earlier filed application or a description of a protective instrument.

6.3. Title of the invention (utility model) shall correspond to the subject of the invention (utility model) and, as a rule, shall characterise its indication.

The title of the invention (utility model) shall be worded in singular.

The exceptions include:

Names which are plural only;

Titles of the inventions (utility models) relating to chemical compounds described by a general structural formula.

(indent five, paragraph 6.3, section 6, as revised under the Resolution

No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

The title of the group of inventions one of which is intended for obtaining (preparation), carrying out or use of the other invention shall comprise full title of one invention and abridged title of the other.

The title of the group of inventions one of which is intended for the use in the other invention shall comprise full titles of the inventions of the group.

The title of the group of inventions which are the variants shall consist of the title of one invention of the group and the word "variants" in brackets.

#### 6.4. Field of the invention (utility model)

In this section, the field of the invention (utility model) shall be specified, as well as the field of use of the invention (utility model), if necessary. If there are several fields, only those shall be specified, which are preferable.

#### 6.5. Prior Art.

6.5.1. The section "Prior Art" shall disclose the prior art known to the applicant, which may be considered to be useful for understanding of the invention (utility model) and its relation to the known prior art.

In particular, the information on prior arts known to the applicant shall be provided with the indication of the closest prior art.

6.5.2. Prior art of the invention (utility model) is the means of the same indication, known from the sources which were made available to the public before the date of filing of an application with the Institution, or, if the priority has been claimed, before the priority date, and is characterised by the features similar to those of the invention (utility model).

If there are more than one prior arts, the closest prior art shall be described in the end.

The description of each of the prior arts shall contain bibliographical data of the information sources where they were disclosed, as well as their features with specification of those which are common with the features of the claimed invention (utility model), and with specification of the reasons preventing from attaining of the technical effect.

In order to reveal and specify the reasons preventing from attaining of the technical effect when using the closest prior art, it is necessary

to analyse technical characteristics of the closest prior art determined by its features and how these characteristics are manifested in the use of the closest prior art. It is also necessary to show their insufficiency for the attaining of the technical effect.

6.5.3. In the case of the group of inventions, information about the prior art shall be given for each invention individually.

#### 6.6. Disclosure of the invention (utility model)

6.6.1. The subject of the invention (utility model) shall be disclosed through the description of its substantial features sufficient for the attaining of the technical effect provided by the invention (utility model).

The features are substantial if they cause attaining of technical effect, namely if there is a cause-and-effect relation between these features and the technical effect.

6.6.2. In this section, the problems solved by the invention (utility model), as well as the technical effect attained by the invention (utility model) shall be described in details.

The technical problem, as a rule, lies in the creation of an object whose characteristics meet the specified requirements. This object may be a device, process, etc.

6.6.3. The technical effect shall mean detection of new properties or improvement of known properties of the subject matter of an invention (utility model), achieved in the course of carrying out the invention (utility model).

The technical effect may be manifested, for example, in the decrease or increase of torque, friction coefficient, oscillation frequency or amplitude, in decrease of signal distortion, in the structural modification in the process of crystallisation, in the improvement of the contact of the operational unit with the medium, etc.

The technical effect may be obtaining of the technical means with a certain purpose for the first time.

(indent three of paragraph 6.6.3, section 6, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

It is also recommended to mention other technical effects attained by the invention (utility model), including certain modes for carrying out

the invention (utility model), known to the applicant.

In the case of the group of invention, the said information, including the information concerning the technical effect, shall be provided in respect of each invention.

If possible, the cause-and-effect relation between the features of the invention (utility model) and the attained technical effect shall be shown in this section.

(indent six of paragraph 6.6.3, section 6, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

#### 6.7. Figures of the drawings

In this section, besides the list of figures, a brief explanation of what is shown on them shall be given.

If the invention (utility model) is illustrated by other materials, such as photographs, a brief explanation of their content shall be given.

(indent three of paragraph 6.7, section 6, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

Tables shall be numbered individually.

#### 6.8. Modes for carrying out the invention (utility model)

6.8.1. This section shall disclose the possibility of attaining of the technical effect described in the section "Disclosure of the invention (utility model)" in the course of carrying out the invention (utility model).

6.8.2. The possibility of carrying out the invention (utility model) the substance of which is characterised by the feature expressed in the general concept, in particular in functional generalisation, shall be supported either by the description of the means for implementing this feature, which may be included directly in the application, or by the reference with regard to this means or the methods for obtaining thereof being known. (paragraph 6.8.2, section 6, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

6.8.3. If quantity expressed in a range of values is used to characterise the invention (utility model), the examples of carrying out the invention (utility model) shall contain data confirming possibility of attaining of the desired technical effect within the given range.

(paragraph 6.8.3, section 6, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

#### 6.9. Signature

The description of the invention (utility model) shall be signed by the applicant in the same way as the he signs the request for the grant of a patent.

(indent two of paragraph 6.9, section 6, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

## **7. Claims**

### **7.1. Purpose of the claims and claims requirements**

7.1.1. The purpose of the claims in the application for an invention (utility model) is to define the scope of protection of the patent.

(paragraph 7.1.1, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

7.1.2. The claims shall disclose the invention (utility model) and shall be worded in a concise and clear manner.

(paragraph 7.1.2, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

7.1.3. The claims are considered to disclose the substance of the invention (utility model) if they comprise the features of the invention (utility model) sufficient for the attaining of the technical effect as defined by the applicant.

(paragraph 7.1.3, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

7.1.4. The claims shall be based on the description and characterise the invention (utility model) using the same concepts contained in the description.

7.1.5. The features of the invention (utility model) mentioned in the claims shall be worded so that they could be identified, namely unambiguously interpreted by a person skilled in the art.

7.1.6. If the application contains drawings, for better understanding of the features mentioned in the claims in their relation to the reference signs of the drawings, it is acceptable to include corresponding reference signs in brackets after features in the claims. The inclusion of the reference signs does not limit the scope of the protection defined by the claims.

7.1.7. Characteristic of the feature of the invention (utility model) in the claims can not be substituted by a reference to the description or drawings. The substitution is possible in exceptional cases where the feature can not be expressed in any other way. The applicant shall show that this necessity does exist.

7.1.8. It is advisable to characterise a feature of the invention (utility model) with the use of general concepts (relating to the function, quality, etc.) which cover different individual embodiments of the invention in the case where the characteristics covered by the general concept together with other features of the invention provide the attaining of the technical effect mentioned by the applicant.

If such a concept does not exist, or generalisation is unreasonable, a feature of the invention (utility model) may be worded as an alternative. A feature of the invention (utility model) may be expressed as an alternative provided that this feature (irrespective of the choice from the said alternative), in combination with other features, provides the attaining of the same technical effect.

## 7.2. Structure of the claims

The claims may be single or multiple and comprise one or more claims, respectively.

7.2.1. Single claim is used to characterise one invention (utility model) with substantial features which are not further developed or specified in respect of certain embodiments or use of the invention (utility model).

7.2.2. Multiple claims are used to characterise one invention (utility model) with substantial features which are further developed and/or specified in respect of certain embodiments or use of the invention (utility model) to characterise a group of inventions.

7.2.3. Multiple claims characterising one invention (utility model) include one independent claim and subsequent dependent claim(s).

7.2.4. Multiple claims characterising a group of inventions have several independent claims each of which characterises one invention of the group. In this case, each invention can be characterised with the involvement of claims dependent on the independent claim.

7.2.5. When drafting the multiple claims, the following requirements shall be met:

independent claims, as a rule, shall not comprise references to other claims. However, such references are acceptable where they enable to word the independent claim so that it did not comprise the entire content of other claims;

dependent claims shall be grouped together with the independent claim

on which they depend, including the cases where for characterising of different inventions within the group one and the same dependent claims are used;

multiple claims shall be numbered in Arabic numerals beginning from 1 (in the order as they are mentioned).

### 7.3. Claims in the application for an invention (utility model)

7.3.1. A claim in an application for an invention (utility model) usually consists of a preamble including features which are common with a closest prior art, including a generic concept characterising function of a subject matter, and a characterising clause including features of the invention (utility model) different from those of the closest prior art.

(indent one, paragraph 7.3.1, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

The preamble and characterising clause are separated with the words "characterised in that...".

Claims may be drafted without the division between a preamble and characterising clause, in particular these may be the claims relating to:

(indent three of paragraph 7.3.1, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

an individual compound;

strain of micro-organism, plant or animal cell culture;

new use of a known product or process;

(indent six of paragraph 7.3.1, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

a pioneer invention (utility model).

(indent seven of paragraph 7.3.1, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

Claim (or each claim of multiple claims) shall be worded as one sentence.

7.3.2. An independent claim in an application for an invention (utility model) must relate only to one invention (utility model) or a group of inventions claimed in the form of an alternative.

(indent one of paragraph 7.3.2, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26



February, 2004)

An independent claim characterising one invention (utility model) or each independent claim characterising a group of inventions shall include a set of features sufficient for attaining of a technical effect. This set of features determines the scope of protection.

7.3.3. When drafting an independent claim, one should bear in mind that the features sufficient for attaining of the technical effect must be worded as the features pertinent to this subject matter.

7.3.4. An independent claim is not considered as such that relates to one invention (utility model) where it comprises:

(indent one of paragraph 7.3.4, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

alternative features which do not provide attaining of the same technical effect, or alternative groups of features, each alternative group comprising several functionally independent features (unit or component part of a device; step of a process, substance, material or device used in the process; ingredient of a composition, etc.), including cases where the choice of one of the alternative features depends on the choice of another (other) feature(s);

characteristic of inventions which relate to objects of different kind or a set of means, each of which has its own purpose, while the said set has no common purpose.

7.3.5. A dependent claim relating to an invention (utility model) shall include features which develop or specify the features given in the independent claim, in particular develop or specify some of these features, and which are necessary only for certain embodiments of the invention (utility model) or for its use.

7.3.6. A preamble of a dependent claim shall include a generic concept which represents the purpose of an invention (utility model), worded more briefly as compared to the independent claim, and shall comprise reference to the independent claim and/or dependent claim(s) to which it pertains.

7.3.7. Claims may be dependent on the independent claim either directly or indirectly, namely they may contain references to one or more dependent claims.

7.3.8. The direct dependency is used where for characteristic of an embodiment or a certain case of use of the invention (utility model), besides the features of this claim, only the features of an independent claim are necessary.

(paragraph 7.3.8, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

7.3.9. The indirect dependency is used where for characteristic of an embodiment of an invention or a certain case of its use, besides the features of an independent claim, the features of one or more dependent claims are necessary.

7.3.10. In the case of multiple dependent claims, references to several claims shall be worded as an alternative.

7.3.11. In a dependent claim characterising one subject matter, the wording "device according to claim 1" in all cases implies an entire content of the first claim, namely the set of all features mentioned in its preamble and characterising clause with no exception.

7.3.12. If a dependent claim is worded so that a feature present in the independent claim on which it depends was changed or is missing, it can not be considered as such that characterises the same invention (utility model) as that characterised by the independent claim.

(paragraph 7.3.12, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

#### 7.4. Signature

The claims shall be signed in the same way as a request for the grant of a patent.

(indent two of paragraph 7.4, section 7, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

## **8. Drawings**

8.1. Graphic representations (namely drawings, schemes, diagrams, etc.) shall be presented on a separate sheet (separate sheets). In the top right corner of each sheet, one shall indicate the title of the invention (utility model).

8.2. For the explanation of the invention (utility model), one may file photographs as a supplement to other graphical materials. In exceptional cases, photographs may be submitted as a main type of illustrations, for example as the illustration of stages in a surgery.

The size of photographs shall not exceed the margins of sheets in the application. Small photographs shall be glued on a sheet of paper of the given size in accordance with the requirements to the quality of sheets.

## **9. Abstract**

9.1. An abstract is a summary of the invention (utility model) comprising the title of the invention (utility model), characteristic of the field of invention to which the invention (utility model) relates and/or the field of its use (if this is not obvious from the title of the invention), characteristic of the subject of the invention (utility model) with indication of the technical effect attained. In the abstract, the subject of the invention (utility model) shall be characterised in the form of free account of the claims, preferably by maintaining all substantial features of each independent claim.

9.2. The abstract is composed for the informational purpose. It can not be taken into consideration for any other purpose, in particular for interpreting of the claims and determining of the prior art.

The abstract shall be composed so that it could serve as an effective means for search in the corresponding technical field.

9.3. The recommended content of the abstract is up to 1000 symbols. The abstract shall be worded in separate simple sentences, and it is advisable to avoid expressions of complicated style.

Mathematical and chemical formulae, as well as drawings may be included in the abstract if the abstract cannot be drafted without them. The drawings given in the abstract may be presented on a separate sheet and enclosed to the abstract. The number of copies of the drawings accompanying the abstract must be the same as that of the abstract itself.

9.4. The abstract may also contain certain supplementary information, in particular reference to the number of independent and dependent claims, figures of the drawings, tables.

## **10. Requirements to the application relating to a device**

10.1. To characterise the "device" as a subject matter, the following features shall be used, in particular:

constructional element (s);

connections between the elements;

form of the element or the device as a whole;

the way in which the connection between the elements is made;

parameters and other characteristics of the element (s) and their interrelation;

material of which the element (s) or the device as a whole, as well as the medium performing the function of the element are made, and other characteristics.

### 10.2. Manner of the description

10.2.1. The section "Modes for carrying out the invention" shall comprise the static description of the device. In the description of the constructional elements of the device, references shall be made to the drawings. The numeric references of the constructional elements in the description shall correspond to those indicated on the drawings.

10.2.2. After the static description of the device, its operation (work) or the method of its use shall be described with reference to the reference signs of the constructional elements shown on the drawings and, if necessary, on other graphical materials (distribution diagrams, time diagrams, etc.). In certain cases, for better understanding of the invention and for the sake of conciseness, it is possible to draft this section presenting description of the device in a different order.

10.2.3. If the device comprises the element characterised on a functional level, and its carrying out requires the use of multifunctional programmed (adjusted) means, one shall provide information confirming ability of this means to perform the given function in the said device. If, besides this information, algorithm is provided, for example computational algorithm, it shall preferably be presented in the form of a chart or, if possible, in the form of mathematical expression.

### 10.3. Manner of the claims

10.3.1. A device shall be characterised in the claims in static.

The claims may contain reference to the ability of performance of a certain

function by an element of the device, to the fact that the element is adapted to move, for example to turn or rotate, etc.

10.3.2. To prevent vagueness in the characteristic of the device, the features of the device shall consist not only of the elements, but include connections between them and/or their mutual arrangement.

Reference to the element not included in the claims is acceptable if this reference does not cause vagueness in the characteristic of the device.

## **11. Requirements to the application relating to a substance**

11.1. For the characteristic of the substance the following features shall be used:

11.1.1. In particular, for individual compounds the following features shall be used:

in the case of lower compounds: content (atoms of certain elements), quantity (number of atoms of each element); bonds between the atoms, their position within the molecule described by the chemical structural formula, or in the crystal lattice;

in the case of high-molecular compounds: chemical content and structure of one chain of macromolecule, macromolecule structure as a whole (linear, branched), periodicity of chains, molecular weight, chain-length distribution, macromolecule geometry and stereometry, its terminal and side groups;

in the case of individual compounds of undetermined structure: physicochemical and other characteristics, including the features of the method of its production enabling to identify this compound.

11.1.2. For the characteristic of compositions, in particular, the following features shall be used:

quality (ingredients);

quantity (ingredients content);

structure of the composition;

structure of the ingredients.

11.1.3. For the characteristic of a substance obtained by the nuclear transformation, in particular, the following features shall be used: quality (isotopic composition of the element), quantity (number of protons and neutrons);

main nuclear characteristics: half-life period, type of energy and radiant energy (for radioactive isotopes).

11.1.4. For the characteristic of compositions of undefined content, in particular, the following features shall be used: physicochemical, physical and utilitarian indices, as well as the features characterising the method of preparation.

11.2. Manner of the description

11.2.1. The title of the invention, which is an individual compound, shall

include its name according to one of the common chemical nomenclature (preferably the international nomenclature of chemical compounds IUPAC). It is also possible to point out its indication, and in the case of biologically active compounds, the type of biological activity.

11.2.2. In the section "Examples of carrying out the invention" for an invention which is a new individual compound of a certain structure, the following shall be provided: the structural formula determined by the standard methods, physicochemical constants, description of the method by which the compound was first obtained and the confirmation that this compound can be used for the certain indication.

(paragraph 11.2.2, section 11, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

11.2.3. In the case of a genetically engineered compound, the following shall be listed: the nucleotide sequence (for the nucleic acid fragments) or physical chart (for recombinant nucleic acids and vectors), as well as aminoacid sequences, physicochemical and other characteristics identifying the compound. Also, the method by which the new individual compound was first obtained, as well as the possibility of use of this compound for the given indication shall be described.

11.2.4. In the case of biologically active compounds, the indices of their activity and toxicity, as well as selectivity, if necessary, and other indices shall be given.

11.2.5. If the invention is a group (range) of new individual compounds having the structure determined by the general structural formula, the possibility to obtain all the compounds of the group shall be confirmed by the general scheme of the preparation method, as well as by at least one example of preparation of a certain compound of the group (range). If the group (range) comprises radicals of different chemical nature, the number of examples shall be sufficient to confirm the possibility to obtain the compounds containing these radicals. In the case of obtained compounds, one shall provide their structural formulas confirmed by the known methods, physicochemical constants, as well as proofs of possibility to be used of the given indication with the confirmation of this possibility in respect of certain compounds having different chemical radicals.

11.2.6. If the new compound was obtained with the use of a micro-organism



strain, plant or animal cell culture, the information about the biosynthesis method involving this strain, plant or animal cell culture, as well as data relating to this strain or cell and, if necessary, data relating to its deposit shall be provided.

11.2.7. If new compounds are biologically active, the indices of their activity and toxicity and, if necessary, selectivity and others shall be given.

11.2.8. If the invention is an intermediate compound, one shall show the possibility of obtaining of a new final product having certain indication or biologically active properties, or the possibility of its transformation into the known final product.

11.2.9. If the invention is a means for treatment, prevention or diagnostics of a certain disease, proven data confirming its suitability to be used for treatment, prevention or diagnostics of this disease shall be provided. If possible, it is desirable to provide data explaining how the use of this means affects aetiopathogenesis. It is desirable to provide the data relating to clinical tests indicating the way of administration and the administered dose, the results of the toxicity test and the formulation method.

11.2.10. If the invention is a composition (mixture, solution, alloy, etc.), the examples shall include ingredients contained in the composition, their characteristic and ratio. If the composition comprise a new compound, the method of preparation of the composition and compound shall be described.

11.2.11. In all examples, the content of each ingredient shall be mentioned in the amount which corresponds to the range mentioned in the claims (when the ratio of ingredients in the claims is given in weight or volume percent, the overall content of all ingredients mentioned in the example shall be equal to 100%).

### 11.3. Manner of the claims

11.3.1. The claims characterising an individual chemical compound of any origin shall include its name or denomination. The claims may include an indication or a type of biological activity. In the case of the compound having determined structure, the structural formula shall be given, while

in the case of the compound of undetermined structure, its physicochemical and other characteristics identifying the compound shall be provided, in particular:

for antibiotics and other lower substances: the source of isolation (strain of micro-organism or plant or animal cell culture), elemental content, molecular weight, optical activity, spectrum analysis data, colour and physical state of the substance, its solubility and colouring reactions;

for native enzymes: the source of isolation (strain of micro-organism or plant or animal cell culture), substrate specificity, molecular weight, optimal pH, thermo- and pH-stability, isoelectric point, Michaelis constant, enzyme inhibitor;

for monoclonal antibody: the source of isolation (strain of micro-organism or plant or animal cell culture), immunoglobulin class (subclass) and type of light chain, specificity, the antigen characteristic such as targets, association constant, molecular weight, isoelectric point, and depending on the nature of the antigen: complementary-associating or neutralising, or lytic, or agglutinating, or precipitating activity, or cytotoxicity (quantification);

for protective antigens: the strain as a source of isolation, localisation and the nature of the antigen within the strain structures, the method of isolation, biochemical content (for polysaccharide antigens: monosaccharide content; for protein antigens: amino acid content and others), molecular weight, isoelectric point and (or) isoelectric mobility.

11.3.2. In the case of genetically engineered objects, the claims shall include nucleotide sequence (for nucleic acids fragments) and the description of the physical chart (for recombinant nucleic acids), as well as an amino acid sequence, physicochemical and other characteristics identifying these objects, in particular origin (constituents), physical chart indicating genetic markers and regulator zone, conjugativity (for plasmids), vector capacity, hosts spectrum (for vectors), nucleotide sequence of the side fragment of a nucleic acid (gene structure) and the name of encoded substance (for recombinant nucleic acids and fragments of nucleic acids).

11.3.3. In the claims relating to a composition, its qualitative content (ingredients) and, if necessary, quantitative content (amount of ingredients), its structure and structure of the ingredients shall be included.

11.3.4. The characterising features of the invention related to a composition shall be included into the claims preceded by the word "contains" with an extension "additionally" if the latter is necessary for emphasising the fact that the ingredient is added to the composition. The quantity of ingredients in the composition shall be expressed in any single-valued units, as a rule, in two units characterising the minimum (lower) and maximum (upper) limits of the content. The content of one of the ingredients may be characterised by the word "the rest". The content of antibiotics, enzymes, anatoxins, etc. may be expressed in units other than those of the rest of components in the composition, for example, in mass thousandth from the rest of ingredients in the composition.

11.3.5. In the case of compositions, indication of which is determined by the active compound, and in which the rest of components are neutral carriers traditionally used in the compositions of this indication, it is possible to mention only this active compound in the claims and, if necessary, its amount in the composition. The description of the amount by the use of expression "the effective amount" is admissible. Yet another option in characterising the composition may be to additionally mention other components (neutral carriers) in the claims in the general terms such as, for example, "desired additive". In this case, if necessary, the ratio between the "active compound" and the "desired additive" shall be given.

11.3.6. If a known complex compound serves as a feature of the invention, it is possible to use its special name compulsory indicating the properties and function of this compound and its base. In the latter case, the description shall contain reference to the source where this compound was described and, if necessary, where its entire content and the method of preparation were disclosed.

## **12. Requirements to an application relating to a strain of micro-organism, plant or animal cell culture**

12.1. To characterise a strain of micro-organism, plant or animal cell culture, the following features shall be used:

12.1.1. To characterise individual strains of micro-organisms, the following features shall be used, in particular:

cultural-morphological characteristics, temperature of growth and age of the culture (characteristic of vegetative cells, colonies, air and substrate mycelium for micromycetes and actinomycetes, growth stages in the liquid medium for bacteria; yeasts, micro-algae);

physiological-biochemical characteristics (typical metabolites, relation to the temperature, oxygen, pH, the use of nitrogen and carbon); chemo- and genotaxonomic characteristics;

karyological characteristic (for eukaryotes);

marker characteristics: genetic, antigen, biochemical, physiological;

biotechnological characteristic: the name of the useful substance produced by the strain, or other purpose of the strain indicating the stable maintenance of useful properties upon long-term cultivation, the level of activity (productivity);

virulence, antigen structure, immunogenicity, serological properties, oncogenicity, sensitivity to antibiotics, antagonistic properties (for strains of micro-organisms for medical and veterinary use);

characteristic of parent strains (partners), hybridisation principle (for strains of hybrid micro-organisms).

It is also possible to use other characteristics enabling to identify individual strains of micro-organisms.

12.1.2. To characterise individual strains of plant and animal cells, the following features shall be used, in particular:

culture lineage;

number of passages by the time of passportisation;

standard conditions of growth;

cultural properties;

growth (kinetic) properties;

characteristic of cultivation in an animal body (for hybrid);

cytogenetic (karyological) characteristics;

cytomorphological characteristics;

capability of morphogenesis (for plant cells);

data confirming membership in a certain species (for animal cells);

oncogenicity (for animal cell cultures, including hybridomes);

marker characteristics: cytogenetic, immunological, biochemical, physiological;

contamination characteristics (protozoa fungi, yeasts, bacteria, mycoplasma, viruses);

biotechnological characteristics: name and/or characteristic of the useful substance produced by the culture, or other purpose of the culture indicating the stable maintenance of useful properties upon long-term cultivation, yield of the product, activity level (productivity);

cryoconservative and other characteristics enabling to identify individual strains of plant and animal cell culture.

12.1.3. To characterise consortiums of micro-organisms, plant and animal cell cultures, in addition to the features mentioned with regard to individual strains, the following features shall be used, in particular: origin (source from which it is isolated), factor and conditions of adaptation and selection, taxonomical content, divisibility, number and dominating components, cultural-morphological and physico-biological features of individual components, types and physiological properties of the consortium as a whole, correlation and replaceability of strains, characteristics of new individual strains and other characteristics enabling to identify them.

## 12.2. Manner of the description

12.2.1. The title of the invention which is the strain of micro-organism or plant or animal cell culture shall include scientific Latin name of the genus and species of micro-organism or plant or animal cell culture, surname (s) of the author(s) of the species and the purpose of the strain of micro-organism or animal or plant cell culture. The name of the micro-organism or animal or plant cell culture shall meet the requirements of international codes of bacteriological, botanical and zoological nomenclatures. For example, in the case of bacteria, the names shall be the ones included in the "Approved lists of bacteria names" or those additionally published in the International Journal of Systematic and Evolutionary Microbiology.

Names of micro-organisms which have not been included in the said list or its supplements may be given in the form of an undisclosed species - Sp. (Species) with indication of an invented name in the brackets accompanied by the mark "inv.", for example "Strain of bacteria *Bacillus* "Sp." (*B. amulolyticum*) "inv." - amylase producer".

12.2.2. When characterising the closest prior art of the invention which is a strain of micro-organism, plant and animal cell culture, the data relating to the yield of the desired product in the medium shall be given, as well as the data with regard to the activity (productivity) level and the method of their determination (testing). If the strain is a substance producer, the additional information about the produced substance shall be given.

12.2.3. When providing the information confirming possibility of carrying out the invention, in the case of a strain of micro-organism, plant and animal cell culture, one shall provide the nomenclature data, as well as the data with regard to the origin of the strain or animal or cell plant culture; data with regard to quantity and quality of the nutrient medium (sowing and enzyme), conditions of cultivation (temperature, pH, specific mass transfer of O<sub>2</sub>, lighting, etc.), period of fermentation, the level of activity (productivity) of the strain and methods for its determination (testing), characteristics of biosynthesis, useful (desired) products, yield of the product. In the case of producers of new products (for example, antibiotics, enzymes, monoclonal antibodies, etc.), the method of isolation and purification of the desired products shall be described.

The possibility of carrying out the invention which is a strain of micro-organism, plant or animal cell culture shall be confirmed by the reference to where or how this strain, plant or animal cell culture can be obtained.

12.2.4. The possibility of obtaining the strain of micro-organism, plant or animal cell culture shall be supported by the description of the method of their preparation so that a person skilled in the art could carry out the invention following the description, or by providing the information about deposit of the strain of micro-organism in the official collection, depositary. In this case, the date of deposit shall precede the date of filing of an application and, if a priority has been claimed, it shall precede the priority date.

12.2.5. The information about deposit of the strain of micro-organism shall include:

The name and location of the depositary where the strain was deposited;  
Deposit date;

Registration number allocated to the deposited strain of micro-organism.  
The deposit of a micro-organism for the purpose of patent procedure shall

be considered as such that has taken place if the micro-organism has been deposited in depositaries of Ukraine the list of which is given in Appendix 2. If the applicant is a foreign person or a person residing or having domicile outside Ukraine, or if the strain can not be deposited in the depositaries of Ukraine, the micro-organism shall be deposited at any authority having the status of an international depositing authority under the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (Budapest, 1977, revised in 1980 (995\_039)).

12.2.6. In the case of consortiums of micro-organisms and plant and animal cell cultures, the following shall be provided: the method of checking the availability of components, method of isolation (selection) and properties by which the selection was performed, the stability of consortium as such upon long-term cultivation, resistance to contamination with extrinsic micro-organisms.

#### 12.3. Manner of the claims.

The claims characterising a strain of micro-organism, plant or animal cell culture shall include scientific Latin name of the genus and species of the micro-organism (plant or animal cell culture) to which the strain of micro-organism (plant or animal cell culture) is related, the purpose of the strain of micro-organism (animal or plant cell culture) and, if the strain of micro-organism has been deposited, the name or abbreviation of the official collection, depositary and the registration number of the deposited object.

### **13. Requirements to an application relating to a process (method)**

(title of section 13 as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.1. To characterise the "process" invention, the following features shall be particularly used:

(indent one of paragraph 13.1, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

existence of actions or a set of actions;

order of performance of these actions in time (subsequently, simultaneously, in different combinations, etc.);

conditions under which these actions are performed: regime, use of substances (stock reagents, catalysts, etc.), devices (means, tools, equipment, etc.), strains of micro-organisms, plant or animal cell cultures.

#### 13.2. Manner of the description

13.2.1. The title of the invention which is the process for the preparation of a high-molecular compound of undetermined content shall contain the name of this compound and, if necessary, its indication.

(indent one of paragraph 13.2.1, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

The title of the invention which is the process for the preparation of a substance (mixture of undetermined content) shall contain the indication or biologically active properties of this compound.

(indent two of paragraph 13.2.1, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.2. In the section "Prior art" of the description of the invention which is the process of preparation of a new individual compound, including high-molecular compound or a genetically engineered object, the information shall be given about the process of preparation of its known structural analogue.

(indent one of paragraph 13.2.2, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

If the invention is constituted by a process of preparation of a mixture



of undetermined content and having specific indication or biologically active properties, an analogue may be considered a process for the preparation of a mixture having the same indication or biological activity. (indent two of paragraph 13.2.2, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.3. The section "Modes for carrying out the invention" shall contain reference to an order of actions (measures, operations) on material objects, as well as to the conditions of performing those actions, certain regimes (temperature, pressure, etc.) and, if necessary, to devices, substances, strains of micro-organisms, plant and animal cell cultures involved. (paragraph 13.2.3, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.4. When new compounds are used in the process, a process of their preparation shall be disclosed.

(indent one of paragraph 13.2.4, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

In the description of the process characterised by the use of known means (devices, substances and strains of micro-organisms, plant and animal cell cultures), a reference to this means is sufficient. When unknown means are used, their characteristic shall be provided. When a strain of micro-organism, plant and animal cell culture is used, one shall make a reference as to where and how the corresponding strain of micro-organism or plant and animal cell culture can be obtained.

(indent two of paragraph 13.2.4, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.5. The possibility of obtaining a strain of micro-organism shall be supported by the description of the process of its preparation made up so that a person skilled in the art could carry out the invention following the description, or by providing data on its deposit in the official collection, depository. The date of deposit shall precede the date of filing of an application and, if a priority has been claimed, it shall precede the priority date.

(paragraph 13.2.5, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February,

2004)

13.2.6. In the case of the invention which is a process for the preparation of an individual chemical compound of undetermined structure, the data necessary for identifying this compound shall be provided, such as the data on the stock reagents used for obtaining this compound, as well as the information supporting the possibility of using the compound for the indication suggested by the applicant. It is also desirable to provide information about the properties resulting in the ability of this compound to be used for this indication.

(paragraph 13.2.6, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.7. In the case of the invention which is a process for the preparation of a mixture of undetermined content and/or structure, besides the data on stock reagents used for obtaining this mixture, the data necessary to identify the mixture shall be provided, as well as the information supporting the use of the mixture for the indication suggested by the applicant, including the desirable information about the properties resulting in the ability of this mixture to be used for this indication.

(paragraph 13.2.7, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.8. In the case of the invention which is a process for the preparation of a new group (range) of compounds which can be described by a general structural formula, at least one example of preparation of a certain compound of the group (range) shall be given. If the group (range) comprises compounds having radicals of different chemical nature, the number of examples shall be sufficient to confirm the possibility of obtaining compounds having these radicals. The compounds included in the group (range) shall be supported by structural formulae confirmed by the known methods and their physico-chemical characteristics. The description shall also contain information about the indication or biologically active properties of new compounds.

(paragraph 13.2.8, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.9. If the invention is a method of treatment, prevention or diagnostics

of a certain disease, the proven data shall be provided in confirmation of its suitability to be used for the treatment, prevention or diagnostics of the given disease. If possible, the data on the influence on etiopathogenesis of the disease or the relation between etiopathogenesis and diagnostics data may be provided.

(paragraph 13.2.9, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.2.10. If the invention is a process for the preparation of an article, certain components of which or the article itself are made of a material of undetermined content and structure, one shall provide data on the properties of the used material and operational characteristics of these components and/or the article as a whole.

(paragraph 13.2.10, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

### 13.3. Manner of the claims.

13.3.1. In order to avoid vagueness in the disclosure of a process, its features shall not only point out the existence of actions performed on material objects, but the order (sequence) of their performance in time.

(paragraph 13.3.1, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

13.3.2 For the characteristic of an action (measure, operation, etc.) as a feature of a process, one shall use the verbs in the active voice, indicative mood, third person plural, for example "is/are heated", "is/are wetted", "is/are hardened", etc.

(paragraph 13.3.2, section 13, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

#### **14. Requirements to an application relating to a new use of a known product or process**

(title of section 14 as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

14.1. To characterise the "new use of a known product or process", the following features shall be used:

(indent one of paragraph 14.1, section 14, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

brief characteristic of the used object sufficient to identify it;  
definition of the new indication for this object.

14.2. Manner of the description.

14.2.1. The title of the invention which is a new use of a known product or process shall commence with the word "Use" followed by the name of the known product or process and its new indication.

(paragraph 14.2.1, section 14, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

14.2.2. In the case of the invention which is a new use of a known product or process, the prior art for this invention may be constituted by known products or processes of the same indication, respectively.

If the invention is a new use of a known product or process, the description of the invention shall contain characteristic of the known object (with indication of bibliographic data of the information source where it was disclosed), as well as information as to its known and new indication and, if possible, information as to the reveal of properties resulting in its ability to be used for the new indication.

(paragraph 14.2.2, section 14, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

14.2.3. The section "Modes for carrying out the invention" shall comprise information confirming the ability of the known product or process to be used, as set forth by the law.

(paragraph 14.2.3, section 14, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

#### 14.3. Manner of the claims

If the invention is a new use of a known product or process, the claims shall be worded as follows: "Use... (the name or characteristic of a product or process) as ... (new indication of the product or process)".

(indent two, paragraph 14.3, section 14, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

## **15. Requirements to an application for a utility model**

To characterise a utility model, the features mentioned in paragraph 10.1, 11.1, 12.1, 13.1 and 14.1 of the Rules shall be used.

The manner of the description and the claims shall meet the requirements of paragraphs 10.2, 10.3, 11.2, 11.3, 12.2, 12.3, 13.2, 13.3, 14.2 and 14.3 of the Rules.

(section 15 as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

## **16. Filing of an application**

16.1. Under Art. 12 of the Law, an application is filed with the Institution by the person willing to obtain a patent and having the respective right. The application is directly submitted or forwarded to the address of Ukrpatent.

(indent one, paragraph 16.1, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

An application may be filed along with its electronic copy of a floppy disk or a CD-R. Such copy shall incorporate files each of which is an electronic copy of an individual document of the application. The documents shall be generally made as Word files, and texts may be in the RTF format with the use of the following fonts: Times New Roman, Arial Cyr, size 9, Symbol (for special symbols), and for the representation of mathematical formulae the Microsoft Equation format shall be used.

(paragraph 16.1, section 16, was supplemented with indent two under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

Under Art. 13 of the Law, the filing date of an application shall be the date on which the Institution receives documents containing at least:

- a request for the grant of a patent in an arbitrary form, made in the Ukrainian language;

(indent four, paragraph 16.1, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

- particulars of an applicant and his address, provided in Ukrainian;
- material which would appear to constitute a description of an invention (utility model) provided in the Ukrainian or other language. If the said material is provided in languages other than Ukrainian, in order to maintain the filing date, its translation into the Ukrainian language shall be submitted to the Institution within two months following the filing date.

(indent six, paragraph 16.1, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

16.2. At the applicant's request, the application may be filed through a representative.

(indent one, paragraph 16.2, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

Foreign and stateless persons residing or having their domicile outside

Ukraine, shall perform their rights before the Institution through representatives in the matters of intellectual property, unless otherwise is provided by the international agreements.

(indent two, paragraph 16.2, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

If the lists of applicants includes a natural person residing in the territory of Ukraine, or a legal entity having its domicile in the territory of Ukraine, the application may be filed without a representative, provided that the address for correspondence will be in Ukraine.

If two or more applicants are mentioned in the request, one of them may be appointed as a representative by the rest of the applicants.

(indent four, paragraph 16.2, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

16.3. Any act from the representative's side, or any act towards the representative is considered to be the act performed by the corresponding applicant or applicants or towards them.

(indent one, paragraph 16.3, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

16.4. If the application is filed through a representative, the application shall be accompanied by a Power of Attorney which certifies representative's powers, or by its copy.

(indent one, paragraph 16.4, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

If the Power of Attorney is made in a foreign language, it shall be accompanied by its translation into the Ukrainian language.

The Power of Attorney shall accompany the application papers.

The Power of Attorney may cover one or more applications.

If the Power of Attorney has been issued with regard to several applications, each of the applications shall be accompanied with a copy of the Power of Attorney.

The Power of Attorney shall indicate:

Full name of the person in whose name it has been issued;

Scope of powers granted to the person in whose name the Power of Attorney has been issued;

Date of execution. The Power of Attorney which does not indicate the date



of its execution shall be deemed to be invalid.

The Power of Attorney shall be signed by the person who has issued it. If the Power of Attorney is issued by a Ukrainian legal entity, the signature of an authorised person shall be sealed.

The period of validity of the Power of Attorney can not exceed three years. If a longer period is mentioned in the Power of Attorney, it shall be valid within three years from the date of its execution. If the period of validity is not mentioned in the Power of Attorney, it shall be valid within one year from the date of execution.

The way of execution and the period of validity of the Power of Attorney issued outside Ukraine shall be determined under the law of the country where the Power of Attorney was issued.

The Power of Attorney issued to a representative registered with the Institution for representing a person residing outside Ukraine, may be issued both by the applicant himself, and by a representative of the applicant acting under the corresponding power of attorney issued to him by the applicant. In this case, both Powers of Attorney shall be filed to the Institution.

(indent thirteen, paragraph 16.4, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

16.5. Any appointment of a representative may be cancelled by those who made that appointment or by their successors.

(indent one, paragraph 16.5, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

A representative may resign their powers by submitting a signed notification.

(indent two, paragraph 16.5, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

16.6 The application may be filed by facsimile. In this case, the filing date shall be the date of receipt of the facsimile copy of this application by Ukrpatent (its last part in case if the application was transmitted on different days), provided that an original of such application along with an accompanying letter with the mention of the previous facsimile transmission of the application is received by Ukrpatent within 14 days from the said date.

If the original of the application is received after the expiration of

the said deadline, or it is different in its content from the facsimile copy, the filing date shall be the date of the receipt of the original copy by Ukrpatent, while the contents of the facsimile copy shall not be taken into account.

If the facsimile copy of the application or its part can not be read, it shall be deemed not filed in the part which is not legible.

In case the application is filed by facsimile on a weekend, holiday or any other nonbusiness day provided by the law, or after the close of business hours at Ukrpatent, the filing date shall be the first business day following the date of transmission, provided that the requirements set forth in indent one of this paragraph are met.

(section 16 was supplemented with paragraph 16.6 under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

(17. Deleted; the title of section 17 was deleted under the Resolution No. 223 of the Ministry of Education and Science of Ukraine, dated 14 April, 2005; therefore, paragraphs 17.1 – 17.4 and sections 18 and 19 shall respectively be considered as paragraphs 16.7 – 16.10 and sections 17 and 18)

16.7. Filing an application is subject to payment of the official fee in the amount and in accordance with the requirements of Regulations on the Procedure for Paying Official Fees for Acts Related to the Protection of Intellectual Property Objects, implemented under the Resolution No. 1716 of the Cabinet of Ukraine of 23 December, 2004 (hereinafter the Regulations). A document confirming payment of the fee shall be submitted with Ukrpatent together with the application or within two months from the application filing date. This term may be extended but no more than by six months, provided that a respective request is filed before the expiration of this term and the respective fee is paid.

A document confirming the payment of the fee may be an extract from the banking account of Ukrpatent, which allows to identify the application. If the applicant's reference number is missing in the extract from the Ukrpatent banking account, and if the fees were credited on the account of Ukrpatent after the due date provided by the law, as well as if the fees were paid in a currency other than that provided by sections 3 or 4 of the annex to the Regulations, the document confirming payment of the fees shall be a hard copy of fees calculation sheet (payment order, cash voucher, receipt etc.) included in the application, which meets the requirements of the Regulations and is verified by the authorized bank clerk in accordance with the procedures provided by the law.

The date of receipt of the document confirming payment of the fees shall be the date on which the fees were credited to the account of Ukrpatent. Consequently, crediting of the filing fees must be made before the receipt of the application by the Institution, or within two months following the filing date if a request about the extension of this term has not been filed.

If the filing fee is paid before filing the application or a request with Ukrpatent, the date of receipt of the document confirming payment shall be the date of receipt of such request by Ukrpatent, provided that it is received:

before the expiration of three months following the date of receipt of the fees on the account of Ukrpatent, provided that the amount of fees does not change on the date on which the application is filed;

within one month from the date of implementation of the amended fees.

If the date on which the fees were credited to the account of Ukrpatent is later than the deadline provided by the law, the date of receipt of the document confirming payment of the fees shall be the date mentioned in the hard copy of the calculation sheet which meets the requirements of the Regulations.

A document confirming payment of the fees is considered to meet the requirements of the regulations if it is drawn up in accordance with the provisions of this paragraph and paragraph 5 of the Regulations, and the paid amount of the fee corresponds to the amount of the prescribed filing fees with due account of:

applicants;

number of claims;

availability of an electronic copy of the application on a floppy disk or a CDR.

If the applicant has privileges in the payment of the filing fee, or is exempt from this payment, the application shall be accompanied with a request for the grant of privileges with a copy of a document confirming the right for exemption or partial exemption from payment of the said fee.

(paragraph 16.7, section 16, as amended under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004 and revised under the Resolution No. 223 of the Ministry of Education and Science of Ukraine, dated 14 April, 2005)

16.8. The Power of Attorney (if the application is filed by a representative) shall be executed under the requirements of paragraph 16.4 of the Rules.

(paragraph 16.8, section 16, as revised under the Resolution No. 154 of

the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

16.9. If the applicant wishes to claim the right of priority, under paragraph 2, Art. 15 of the Law, he shall within three months from the filing date furnish with the Institution a declaration of claim of a right of priority from a previous application, specifying the filing date and serial number of the previous application, as well as its copy if it has been filed in a foreign state, party to the Paris Convention for the Protection of Industrial Property. If there are several priorities claimed, copies of all previous applications shall be furnished. If necessary, the Institution may require submission of the translations of the priority application(s) into the Ukrainian language.

(paragraph 16.9, section 16, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

16.10. If the declaration of priority and copy of the priority application were filed to the Institution after the expiration of the prescribed term, the term missed by the applicant under the unpredictable and uncontrolled circumstances, may be extended by 2 months from the date of expiry of the prescribed term (provided that the declaration of priority and a copy of the priority application are accompanied with the payment receipt of the corresponding fee).

## **17. Requirements to an application for a secret invention (utility model)**

17.1. An application for a secret invention or a secret utility model shall be filed to the Ukrpatent directly by the applicant.

Where an invention (utility model) has been created with the use of information entered into the Code of Data Constituting the State Secret of Ukraine, or under the Law of Ukraine "On the State Secret", the application shall be filed with the Institution through the corresponding secret authority or through the competent authority of the local state administration either suit job requirements (for legal entities), or domiciliary (for natural persons) (paragraph 3, Art. 12 of the Law).

17.2. An application for a secret invention (utility model) shall include the following:

request for the grant of a patent of Ukraine for a secret invention (utility model);

(indent two, paragraph 17.2, section 17, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

description of the invention (utility model);

claims;

drawings (if there are references to them in the description).

Indent six of paragraph 17.2, section 17, was deleted.

(under the Resolution No. 223 of the Ministry of Education and Science of Ukraine, dated 14 April, 2005)

Indent seven of paragraph 17.2, section 17, was deleted.

(under the Resolution No. 223 of the Ministry of Education and Science of Ukraine, dated 14 April, 2005)

A request for the grant of a patent of Ukraine for a secret invention (utility model) shall be furnished in the Ukrainian language according to the form provided in Appendix 3 of the Rules.

(indent eight, paragraph 17.2, section 17, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

The requirements to the documents of the application are set forth in paragraphs 5 to 8 of the Rules.

17.3. The documents of the application for a secret invention (utility model), such as the request for the grant of a patent of Ukraine for a secret invention (utility model), description of the secret invention (utility model) and the claims, drawings (if any) shall be furnished in duplicate. The documents which need to be further translated may be filed

in the original language in a single copy, and their translation shall be furnished in duplicate.

(indent one, paragraph 17.3, section 17, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

The documents accompanying the application shall be filed as a single copy.

17.4. Filing of the application is subject to payment of the fee as set forth in paragraph 16.7 of these Rules.

(section 17 was supplemented with the new paragraph 17.4 under the Resolution No. 223 of the Ministry of Education and Science of Ukraine, dated 14 April, 2005; therefore paragraph 17.4 must be considered to be paragraph 17.5)

17.5. Under the Law of Ukraine "On the State Secret", patenting of a secret invention or secret utility model in foreign states shall be prohibited.

## **18. Filing of an international application**

(the title of section 18 as amended under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

18.1. The Competent Office is a Receiving Office under Rule 19 and the Instruction.

18.1.1. The Institution acts as a competent Receiving Office for acceptance and registration of international applications where at least one of applicants is a Ukrainian national or resides in its territory, regardless whether he is the applicant for all states, or only for some of them.

18.1.2. The Ukrpatent shall be responsible for the fulfilment of obligations of the Receiving Office concerning receiving of international applications as provided by the Treaty. In this case, the policy of the Ukrpatent in respect of the matters which are not governed by the above-mentioned instruments shall be governed by the Treaty, Instructions and the Rules.

18.1.3. A natural person shall be considered to be a citizen of Ukraine or a person residing in its territory when he/she is a citizen or resident under the legislation of Ukraine.

Any person may be considered as such that resides in Ukraine if he/she is an owner of a real and effective industrial or trade enterprise in Ukraine.

Under Rule 18 of the Instruction, any legal entity, if it has been registered as a legal entity under the Ukrainian law, may be considered to be a citizen of Ukraine.

If citizenship or Ukrainian residency of the applicant is questionable, the Ukrpatent is entitled to inquire the applicant to provide documentary proofs of the corresponding facts.

### **18.2. Language of an international application**

The Ukrpatent shall accept application in the Russian and English languages.

### **18.3. Number of copies**

An international application (request, description, claims, drawings and abstract) shall be filed to the Receiving Office in triplicate, and each of the filed copies shall be suitable for direct reproduction. The first (registration) copy which is sent to the International Bureau of the WIPO shall be suitable for direct reproduction in an unlimited number.

#### 18.4. Addressee and the address for correspondence

All correspondence provided by the procedure under the Treaty shall be sent to one address in the territory of Ukraine in a single copy:

If in box IV of the request in the international application, as provided for by rules 3 and 4 of the Instruction, an agent or a common representative and his address were indicated, the correspondence shall be sent in the name of this person and to his address;

If in box IV the address for correspondence was given, the correspondence shall be sent to this address and in the name of a person mentioned therein;

If box IV is blank, the correspondence shall be sent to the applicant mentioned in the application first among the persons entitled to file applications to the Receiving Office and in his name. An applicant's request about the recordal of change of the applicant, agent, common representative or inventor (if such a request has been sent through the Receiving Office, but not directly to the International Bureau of the WIPO) shall be taken into consideration, and the changes in the address or addressee shall be taken into account, respectively, only provided that this request contains all necessary data (including the address and transliteration) and has been signed by all applicants to whom the said changes pertain.

#### 18.5. Language of correspondence

The correspondence with the applicant shall be made by the Receiving Office in the language of the international application.

#### 18.6. Transmission of the documents with the use of facsimile

(paragraph 18.6, section 18, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

18.6.1. If the documents of the international application were transmitted to the Ukrpatent by facsimile, the date of filing shall be allocated in accordance with paragraph 16.6 of the Rules. At the same time, the original shall be accompanied by two copies of the application.

(paragraph 18.6.1, section 18, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

18.6.2. If a document related to the international application, but different from the documents of the application, or substituted sheets were transmitted by facsimile, the Ukrpatent shall decide whether it is necessary to send an inquiry to the applicant about submission of the original, and, if necessary, shall issue such an inquiry.



(paragraph 18.6.2, section 18, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

#### 18.7. Applicant's reference

The correspondence sent to the Applicant shall comprise reference to "the applicant's reference number" (no more than 12 symbols) if this number has been mentioned in the request. The applicant may indicate "the applicant's reference number" on every sheet of the international application in the left top corner, not lower than 1,5 cm from the top margin of the sheet (Rule 11 of the Instruction).

The correspondence sent to the applicant shall not contain any other numbers used by the applicant, for example outgoing numbers of certain letters.

#### 18.8. Registration and transmitting of the international application

18.8.1. An international application that meets the requirements of Art. 11(1) of the Treaty shall be registered provided that the applicant has met the requirements set forth in paragraph 1, Art. 37 of the Law, and the provisions of paragraph 3, Art. 12 of the Law are not applied to the application. In this case, the registration copy of the application for which "the basic fee" and the fee for the transmittance have been paid shall be forwarded to the International Bureau of the WIPO.

(paragraph 18.8.1, section 18, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

18.8.2. If the application is deemed to be withdrawn for the reason of non-payment of the international fee by the applicant, the registration copy shall be sent to the International Bureau of the WIPO with a notice of withdrawal. However, in all cases the registration copy shall be sent to the International Bureau not later than 15 days before expiration of the 14 months from the priority date.

18.8.3. If the registration copy of the application has been sent to the International Bureau, but the "search fee" for this application has not been paid, a copy of the application for the conduct of the search shall not be transmitted to the International Search Authority (the Federal Institute of Industrial Property, Moscow; the European Patent Office, Munich), and in the registration copy of the application the corresponding mark shall be made.

#### 18.9. Particulars of the international application

The Ukrpatent may provide the number and filing date of the international application to persons who pointed out the applicant's reference number or the name of the applicant and the title of the invention.

Any other particulars of the international application before it has been published shall be provided either directly to the applicant (agent) or at the applicant's written request to the person mentioned in this request.

#### 18.10. Copy of the priority document

If in the request filed under the Treaty or in a separate letter, the applicant asks the Receiving Office to transmit a certified copy of the priority document to the International Bureau of the WIPO, but he has not paid for its preparation and transmittance, the Ukrpatent shall notify the applicant about the necessity of payment made in accordance with the current tariffs; and as soon as the said payment is received, shall prepare and transmit the copy. The responsibility for non-observance of the terms through the applicant's fault shall be laid on the applicant.

#### 18.11. Effect of the international publication

18.11.1. Under Art. 29 (1) of the Treaty, the international application published in the Russian language has the same effect as the publication of the application particulars provided by paragraph 16, Art. 16 of the Law.

(paragraph 18.11.1, section 18, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)

18.11.2. If the international application is published in another (different from Russian) language, then under Art. 29 (2) of the Treaty the publication will become effective only after the application particulars have been published as provided for by paragraph 16, Art. 16 of the Law, provided that the applicant submits the Ukrainian translation of this application to the Ukrpatent.

(paragraph 18.11.2, section 18, as revised under the Resolution No. 154 of the Ministry of Education and Science of Ukraine, dated 26 February, 2004)