

POLAND

Status as of May 2005

FEATURES	STATUS	CHANGES IN LAWS SINCE 1990
Types of protection for inventions	<ul style="list-style-type: none"> • Patents • Utility models 	N.A
Term of protection	<ul style="list-style-type: none"> • Patents: 20 years • Utility models: 10 years • Extension of patent term is possible on the following grounds: <ul style="list-style-type: none"> - Regulatory approval for pharmaceuticals - Regulatory approval for agricultural chemicals 	April 16, 1993 – Extension of patent term of protection from 15 to 20 years.
Subject matters excluded from patentability or not considered to be inventions	<ul style="list-style-type: none"> • The following subject matters are excluded from patentability: <ul style="list-style-type: none"> - Animals - Plants - Plant and animal varieties - Diagnostic, therapeutic and surgical methods for the treatment of humans and animals - Inventions contrary to morality/public order • The following subject matters are not considered to be inventions: <ul style="list-style-type: none"> - Discoveries - Scientific theories/mathematical methods - Aesthetic creations - Mental acts - Presentation of information - Computer programs - Business methods - Isolated parts of human beings 	April 16, 1993 – Introduction of a new subject matter excluded from patentability: products of nuclear transformation.
Filing language	<ul style="list-style-type: none"> • Filing an application in languages other than an official language is not possible. 	No

Certain requirements relating to filing	<ul style="list-style-type: none"> • The inventor rarely waives his right to be mentioned in the patent. 	<p>April 16, 1993 – Abolition of the provisional patent system. The provisional patent was the exclusive right granted for 5 years in effect of restricted examination under which patentability of an invention was examined only on the basis of Polish patent specifications, Polish utility model specifications, Polish patent applications and Polish utility model applications. Within four years from the date of filing for a provisional patent, the applicant could apply for a regular patent for his invention (it was so-called conversion of a provisional patent into a regular patent). In that case the application was subject to substantive examination.</p>
	<ul style="list-style-type: none"> • It is not possible to file provisional applications. 	
	<ul style="list-style-type: none"> • The most frequent route used by foreign applicants to file patent applications is the PCT (Patent Cooperation Treaty). 	
Link between different inventions in the same application	<ul style="list-style-type: none"> • The applicable law allows that the claims in a patent application relate to a group of inventions. The applicable standard is the unity of invention. 	<p>October 6, 2001 – Introduction of the unity of invention standard. Before that date, the applicable law required that the claims in a patent application related to a single invention only.</p>
Publication	<ul style="list-style-type: none"> • The information related to the application is published or open for public access 18 months from the date of filing or from the priority date. 	<p>April 16, 1993 – Before that date, the applicable law only required that the information related to the application be published after the formal preliminary examination. A patent application could therefore be published 9 months or 18 months after the filing date or earlier, if the applicant so requested. In 1993, the 18 months term of publication was explicitly provided for.</p>
Classification system	<ul style="list-style-type: none"> • The patent classification system used is the International Patent Classification (IPC) system. 	<p>N.A</p>

<p>Search and examination</p>	<ul style="list-style-type: none"> • The applicable law establishes a substantive search and examination system. • Search and examination are combined. For patents and utility models, the applicant is required to request for search and examination through a combined request. • During the examination procedure, the following criteria are examined: <p>Patents:</p> <ul style="list-style-type: none"> - Novelty - Inventive step/non obviousness - Industrial applicability/utility - Proper disclosure of the invention in the description and claims <p>Utility models:</p> <ul style="list-style-type: none"> - Novelty - Industrial applicability/utility 	<p>N.A</p>
<p>Specific legal provision regarding ownership of patents derived from public (government) research funding</p>	<ul style="list-style-type: none"> • No 	<p>No</p>
<p>Exceptions to exclusive rights conferred by a patent</p>	<ul style="list-style-type: none"> • There are exceptions to the exclusive rights conferred by a patent as follows: <ul style="list-style-type: none"> - Private use - Compulsory licenses - Governmental use - Research and/or experimental exception - Preparation of medicines in accordance with medical prescriptions by physicians - Clinical trials for the purpose of obtaining a generic drug's regulatory approval (Bolar provision) - Prior user's right - Exploitation of an invention concerning means of transport or their parts or accessories, temporarily located on the territory of the Republic of Poland or concerning articles which are in transit on its territory. 	<p>August 22, 2001 – Introduction of the Bolar provision.</p> <p>April 16, 1993 – Introduction of the following new exceptions: governmental use, research and/or experimental exception, preparation of medicines in accordance with medical prescriptions by physicians.</p>

Options to challenge a patent	<ul style="list-style-type: none">• There are the different options to challenge a patent or a utility model as follows:<ul style="list-style-type: none">- Pre-grant administrative procedure: within 6 months from the date of publication of the patent or utility model- Post-grant administrative/quasi judicial procedure: within 6 months from the date of publication of the mention of the grant.	No
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