

SPAIN

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• Supplementary certificates of inventions	N.A
Term of protection	<ul style="list-style-type: none">• Patents: 20 years• Utility models: 10 years• Supplementary certificates of inventions: up to 5 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	No
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">- Isolated parts of human beings- Animals- Plants- Plant and animal varieties- 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- Diagnostic, therapeutic and surgical methods for the treatment of humans and animals	May 1, 2002 – Extension of the protection to biotechnology related inventions.

Filing language	<ul style="list-style-type: none"> Filing an application in languages other than official languages 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. 	No
	<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 requires that the claims in a patent application relate to a single invention only. The applicable standard is the unity of invention. 	No
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 and when the patent is granted. 	No
Classification system	<ul style="list-style-type: none"> The patent classification system used is the International Patent Classification (IPC) system. 	N.A
Search and examination	<ul style="list-style-type: none"> The applicable law establishes a substantive search and examination system. Search and examination are separated. The filing of a patent application automatically implies a search, however, the applicant is required to request the examination 3 months from the date of publication of the application. During the examination procedure, the following criteria are examined: <ul style="list-style-type: none"> - Novelty - Inventive step/non obviousness - Industrial applicability/utility 	N.A

<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 - Research and/or experimental exception - Preparation of medicines in accordance with medical prescriptions by physicians - Use of the subject matter of the patented invention on board vessels of countries of the Paris Union, in the body of the vessel, in the machinery, tackle, gear and other accessories, when such vessels temporarily or accidentally enter Spanish waters, provided that the subject matter of the patent is used exclusively for the needs of the vessel - Use of the subject matter of the patented invention in the construction or operation of aircraft or land vehicles of countries members of the Paris Union, or of accessories of such aircraft or land vehicles, when those aircraft or land vehicles temporarily or accidentally enter Spanish territory - Acts provided for in Article 27 of the Convention on International Civil Aviation of December 7, 1944, when such acts relate to aircrafts of a State to which the provisions of the said article apply. 	<p>No</p>
<p>Options to challenge a patent</p>	<ul style="list-style-type: none"> • There are different options to challenge: <ul style="list-style-type: none"> - A patent <ul style="list-style-type: none"> Pre-grant administrative procedure (preliminary exam): within 2 months from the publication of the search report. Post-grant administrative/quasi judicial procedure: recourse (1 month from the date of publication of grant) Court procedure - A utility model: <ul style="list-style-type: none"> Pre-grant administrative procedure: within 2 months from the publication of the application. Post-grant administrative/quasi judicial procedure: 1 month from the date of grant Court procedure 	<p>No</p>