

Comments from Pakistan regarding SCP/16/2 (Report on the International Patent System: Revised Annex II of document SCP/12/3 Rev. 2)

1. Prior Art: Prior art shall comprise:

- Everything disclosed to the public anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or the priority date.
- Contents of complete specification and priority documents filed in Pakistan published in the official Gazette (Part V), on the acceptance of patent application.
- Traditionally developed or existing knowledge available or in possession of a local or indigenous community.

2. Novelty:

An invention shall be considered to be new if it does not form part of the state of the art and state of the art shall comprise

- Everything disclosed to the public anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or priority date.
- Contents of complete specification and priority documents filed in Pakistan published in the official Gazette (Part V), on the acceptance of patent application.
- Traditionally developed or existing knowledge available or in possession of a local or indigenous community.

3. Inventive step (Obviousness):

An invention shall be considered as involving an inventive step if it has not been obvious to a person skilled in the art, having regard to any matter which forms part of the state of art, prior to the date of filing.

4. Grace Period:

Disclosure not to be taken into account for novelty if an article exhibited at an official or officially recognized international exhibition within twelve months before the date of filing of an application for a patent. If later on, the right of priority is invoked, then the period shall start from the date of introduction of the article into the exhibition. The controller may require proof, with such documentary evidence as considered necessary, of the identity of the article exhibited and the date of its introduction into the exhibition.

5. Sufficiency of Disclosure:

Every complete specification shall

- Fully and particularly describe the invention and the method by which it is to be performed.
- Disclose the invention which is known to the applicant and for which he is entitled to claim protection
- End with a claim or claims concisely defining the scope of the invention for which protection is claimed.

6. Exclusions from Patentable subject matter:

Followings are excluded from Patentability

- Discoveries, scientific theories and mathematical methods.
- A literary, dramatic, musical or artistic work
- Schemes, rules and methods for performing mental acts, playing games or doing business
- Presentation of information
- Substances that exist in nature or if isolated therefrom
- Inventions the commercial exploitation of which is contrary to public order, morality, including protecting human, animal or plant life or health or to avoid serious prejudice to the environment provided that such exclusion is not made merely because the exploitation is prohibited by any law for the time being in force.
- Surgical, diagnostic and therapeutic methods for treating humans and animals.
- Plant and animal varieties and essentially biological processes for their production, other than non biological and microbiological processes and products.
- For a new and subsequent use of known product or process and
- For a mere change in physical appearance of a chemical product where the chemical formula or process of manufacture remains the same provided that this clause shall not apply to an invention fulfilling the criteria of patentability.

7. Exceptions and Limitations of the Rights:

- Private, non commercial purposes
- Acts in respect of articles which have been put on the market anywhere in the world

- Use of articles on an aircraft, land vehicles or vessels of other countries which temporarily or accidentally enter the airspace, territory or waters of Pakistan
- Acts, including tests, necessary for the approval of a product for its commercialization after the expiration of the patent.
- Continued prior use by a person who, in good faith before the filing date or priority date was using the invention, or making effective and serious preparations for that purpose
- Teaching purposes in educational or research institutions.
- Acts done only for experimental purposes relating to a patented invention
- Compulsory License (subject to remuneration).

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