

## Comments by Hungary on document SCP/17/2 (Report on the International Patent System: Revised Annex II of document SCP/12/3 Rev.2)

Hungary would like to suggest the following amendments concerning the texts reflecting the Hungarian patent law provisions in document SCP/12/3 Rev.2. Please note that the provision on inventive step (obviousness) should remain as it stands.

### Prior Art

1. Everything made available to the public by a written description, oral communication, use or in any other way before the filing date (priority date).
2. Contents of Hungarian patent and utility model applications, and certain European and international applications, with an earlier filing date (priority date), published ~~on or after that date~~ in the course of the patent granting procedure after the filing date (priority date).

### Novelty

The invention does not form part of the state of the art. The state of the art consists of everything made available to the public by a written description, oral communication, use or in any other way before the filing date (priority date), and the contents of Hungarian patent and utility model applications, and certain European and international applications, with an earlier filing date (priority date), published ~~on or after that date~~ in the course of the patent granting procedure after the filing date (priority date).

### Grace Period

Disclosure not to be taken into account in determining novelty if it occurred within six months before the filing date (priority date) due to:

1. an abuse of the rights of the applicant or his predecessor in title;
2. display of the invention by the applicant or his predecessor in title at an exhibition specified in the announcement by the President of the Hungarian Intellectual Property Office published in the Official Gazette.

### Sufficiency of Disclosure

An application shall disclose the invention in a manner sufficiently clear and detailed for it to be carried out by a person skilled in the art on the basis of the description and the drawings. The industrial applicability of a sequence or a partial sequence of a gene shall be disclosed in the patent application.

### Exclusion from Patentable Subject Matter

1. Discoveries, scientific theories and mathematical methods.
2. Aesthetic creations.
3. Schemes, rules and methods for performing mental acts, playing games or doing business.
4. ~~Computers programs~~ Programs for computers as such.
5. Presentations of information.
6. The human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene.

7. Inventions the commercial exploitation of which would be contrary to public policy or morality, in particular

(a) processes for cloning human beings;

(b) processes for modifying the germ line genetic identity of human beings;

(c) uses of human embryos for industrial or commercial purposes;

(d) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal; and

(e) animals resulting from processes referred to in (d).

8. Plant varieties and animal breeds as well as essentially biological processes for the production of plants or animals.

69. Surgical, therapeutic and diagnostic methods for treating humans or animals.

~~7. Inventions contrary to public policy or morality.~~

### Exceptions and Limitations of the Rights

1. Private acts and/or acts done for non-commercial purposes ~~economic activities.~~

2. ~~Acts for experimental purposes, including experiments and tests necessary for the registration of medicines.~~ Acts done for experimental purposes relating to the subject matter of the invention, including experiments and tests necessary for the marketing authorisation of the product constituting the subject matter of the invention or the product obtained through the process constituting the subject matter of the invention

3. Preparation of prescribed medicines in pharmacies, and acts concerning those medicines.

4. Acts concerning products put on the market in the territory of the European Economic Area by, or with the consent of, the patentee.

5. Biological materials obtained from the propagation or multiplication of biological material put on the market in the European Economic Area by the patentee or with his consent, where the propagation or multiplication necessarily results from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for other propagation or multiplication.

6. Use of harvested plant propagating material for multiplication or propagation by farmers on their own farms.

7. Use of breeding stock or other animal reproductive material by farmers for pursuing their own agricultural activities, but not sale for commercial reproduction.

~~48. Continued prior use by a person who, in good faith at the filing date (priority date), had made or used the invention for commercial purposes in Hungary, or made serious preparations for such purposes.~~ The right of prior use shall belong to a person who, in good faith, before the filing date (priority date), in the territory of Hungary and within the framework of his economic activities, began to produce or use the subject matter of the invention, or made serious preparations for that purposes.

9. The right of continued use shall belong to a person who, in the period between a declaration of lapse of patent protection and restoration thereof, in the territory of Hungary and within the framework of his economic activities, began to produce or use the subject matter of the invention, or made serious preparations for that purposes.

~~510. Certain uses concerning~~ Subject to reciprocity, means of communication and transport in transit in national territory, and foreign goods not intended to be put on the market there.

~~6. Acts in respect of products put on the market in Hungary by, or with the consent of, the patent owner.~~

11. Exploitation in the interest of national defence or national security, subject to remuneration.

~~712.~~ Compulsory licenses.