

SE – SWEDEN

Swedish Intellectual Property Office
Valhallavägen 136
114 41 Stockholm

Mailing address:
P.O. Box 5055
102 42 Stockholm

Telephone: (46-8) 782 28 00
Telefax: (46-8) 666 02 86
E-mail: prv@prv.se
Internet: <http://www.prv.se>

1. Requirements for Deposit

If an invention refers to a biological material which is neither generally available nor can be described in the application in such a manner that a person skilled in the art using the teachings of the document could exercise the invention; or if the invention includes the use of such a material, the biological material shall be deposited on the day the application is made, at the latest.

(Patents Act, Chapter 4, Section 8, paragraph 1)

Thereafter the biological material shall be made continuously available at the depositary institution so that those who by this law are entitled to obtain a sample of the material can have their sample delivered to them within Sweden. If a deposited biological material ceases to be viable or if for any other reason a sample cannot be supplied from the material, it may be replaced by a new deposit of the same biological material within the time and in the manner prescribed by the government. Once this is done, the new deposit is considered to have been made when the earlier deposit was made.

(Patents Act, Chapter 4, Section 8, paragraph 2)

If a patent application includes a deposition of biological material in accordance with Chapter 4, Section 8 of the Patents Act, the applicant shall, once filing the application, declare all relevant information about the characteristics of the biological material available to the applicant.

(Patent Decrees, Chapter 2, Section 10)

A deposit shall be made in accordance with the agreement decided upon in Budapest the 28 April 1977 regarding the international recognition of the deposit of microorganisms in connection with patent cases (The Budapest Treaty). The deposit shall be made to an institution which is an international deposit authority in accordance with the Budapest Treaty. The patent office establishes a list of those institutions which are international deposit authorities according to the Budapest Treaty.

(Patent Decrees, Chapter 2, Section 11)

2. Time of Deposit

The biological material shall be deposited on the day the application is made, at the latest.

(Patents Act, Chapter 4, Section 8, paragraph 1)

A deposit shall be made in accordance with the agreement decided upon in Budapest the 28 April 1977 regarding the international recognition of the deposit of microorganisms in connection with patent cases (The Budapest Treaty). The deposit shall be made to an institution which is an international deposit authority in accordance with the Budapest Treaty. The patent office establishes a list of those institutions which are international deposit authorities according to the Budapest Treaty.

(Patent Decrees, Chapter 2, Section 11)

3. Duration of Storage

A deposit shall be made in accordance with the agreement decided upon in Budapest the 28 April 1977 regarding the international recognition of the deposit of microorganisms in connection with patent cases (The Budapest Treaty). The deposit shall be made to an institution which is an international deposit authority in accordance with the Budapest Treaty. The patent office establishes a list of those institutions which are international deposit authorities according to the Budapest Treaty.

(Patent Decrees, Chapter 2, Section 11)

If a biological material has been deposited in accordance with Chapter 4, Section 8 of the Patents Act, everyone, with the limitations described in Chapter 7, Section 5 to 7 of the Patents Act, has the right to obtain samples from the material once the file is made public in accordance with Chapter 7, Section 1 of the Patents Act.

(Patents Act, Chapter 7, Section 4)

Samples may not be issued to someone who is not allowed to interfere with the deposited material according to law or other ordinance. The same applies to someone whose interference with the sample may imply an evident risk considering the harmful characteristics of the deposited material.

(Patents Act, Chapter 7, Section 5)

Until a patent is granted or until a patent application is finally processed without leading to a patent, a sample from a deposit may only be given to an expert in the field, should the applicant request that. If the patent application is rejected or withdrawn, the equivalent applies during a period of 20 years starting from the day the application was submitted.

(Patents Act, Chapter 7, Section 6)

4. Conditions for the Furnishing of Samples

(i) Time of Availability of Samples

A sample of a microorganism becomes available as from the date on which the patent application is made available to the public.

(Patents Act, Chapter 7, Section 1, paragraph 1)

If a culture of a microorganism has been deposited according to Chapter 4, Section 8 of the Patents Act, any person has the right to obtain a sample from the culture once the file is made public in accordance with Chapter 4, Section 1 of the Patents Act. This is regardless of whether a patent has lapsed or been declared invalid.

(Patents Act, Chapter 7, Section 4)

If patent has not been granted within 18 months from the filing day, or, if priority is claimed, from the day from which priority is claimed, the file shall be made public. If an application is dismissed or rejected, the file shall only be made public if the applicant requests that the application be resumed, lodges an appeal or makes a petition pursuant to Chapter 20, Section 7 and 8 of the Patents Act.

(Patents Act, Chapter 7, Section 1, paragraph 2)

At the applicant's request, the file shall be made available earlier than set out in Chapter 7, Section 1, paragraph 1 and 2 of the Patents Act.

(Patents Act, Chapter 7, Section 1, paragraph 3)

When the file becomes available pursuant to Chapter 7, Section 1, paragraph 2 or 3 of the Patents Act, this fact shall be announced.

(Patents Act, Chapter 7, Section 2, paragraph 1)

If a document contains a business secret and if it does not concern the invention for which patent is sought, the patent office may, upon request and there are special reasons, decide that the document shall not be made available. If such a request has been made, the document shall not be made available until the request has been refused by a decision no longer possible to appeal.

(Patents Act, Chapter 7, Section 3)

(ii) Restrictions Concerning the Furnishing of Samples

Samples may not be issued to someone who is not allowed to interfere with the deposited material according to law or other ordinance. The same applies to someone

whose interference with the sample may imply an evident risk considering the harmful characteristics of the deposited material.

(Patents Act, Chapter 7, Section 5)

Until a patent is granted or until a patent application is finally processed without leading to a patent, a sample from a deposit may only be given to an particular expert, should the applicant request that. If the patent application is rejected or withdrawn, the equivalent applies during a period of 20 years starting from the day the application was submitted.

(Patents Act, Chapter 7, Section 6)

A person who wishes to obtain a sample shall submit a written request to the patent office together with a statement, aiming to prevent misuse of the sample. If the sample may only be given to one particular expert, the statement shall be submitted by that expert.

(Patents Act, Chapter 7, Section 7, paragraph 1)

A request in accordance with Chapter 7, Section 6 of the Patent Act, saying a sample may be issued only to a particular expert, shall be made on the day that the technical preparations to make the patent application available to the public are considered to have been completed, at the latest.

(Patents Decree, Chapter 4, Section 5, paragraph 1)

The patent office shall establish a list of suitable persons who have stated they are willing to undertake the position of expert. The decision concerning which persons are included on the list of experts shall be announced in accordance with Chapter 10, Section 2 of the Patent Decree.

(Patents Decree, Chapter 4, Section 5, paragraph 2)

A person included on the list or a person especially approved by the patent applicant may be appointed as expert.

(Patents Decree, Chapter 4, Section 5, paragraph 4)

If a sample may only be issued to one particular expert, it shall be stated in the request to take part of such sample who is to be appointed as expert. Also, a written statement undersigned the designated expert shall be attached to the request to take part of the sample, corresponding to the statement prescribed in Chapter 4, Section 4, paragraph 2 and 3 of the Patent Decree. If the request refers to samples that ought to be issued according to Chapter 7, Section 6 of the Patents Act, the statement shall be valid for 20 years from the day the patent application was submitted.

(Patents Decree, Chapter 4, Section 5, paragraph 3)