

Inputs from Member States and Regional Patent Offices to the Thirty-Eighth Session of the Standing Committee on the Law of Patents

Respondent Information

First Name:

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Last Name:

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Country:

Egypt

IP Office

Egyptian Intellectual Property Authority (EGIPA)

Job title

Director of the General Administration of Patents

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Disclaimer:

The information provided in response to this questionnaire is understood to be submitted on behalf of the Member State or regional organization concerned, through its competent authority and in accordance with its applicable official internal procedures.

It is assumed that the person completing and submitting the questionnaire is duly authorized to do so and that the information reflects the official position or practice of the Member State or organization, to the extent possible.

I confirm that I have read and understood the statement above and that I agree with its contents.

A. Prior Art

1. How is prior art defined under the applicable national or regional law?

- Prior art is defined in Article 3 of the Law No. 82 of 2002 on the Protection of Intellectual Property Rights in relation to Novelty, accordingly:

"An invention shall not be considered wholly or partly new: (i) if, before the filing date of the patent application, a patent application has been filed for the same invention or a patent was already issued in or outside Egypt for the invention or part thereof; (ii) if, before the filing date of the patent application, the invention was used publicly in; or outside Egypt, or the description of which was disclosed in a manner so as a person having expertise in the art is able to exploit it."

2. Against which date is prior art assessed under the applicable law?

Prior art is assessed against:

- the filing date of the patent application, or
- the priority date, if a valid priority claim is made.

3. Which types of information may constitute prior art under the applicable law, and how is it determined whether such information is considered to form part of the prior art?

According to Article 3 of the Law No. 82 of 2002 on the Protection of Intellectual Property Rights

- (i) if, before the filing date of the patent application, a patent application has been filed for the same invention or a patent was already issued in or outside Egypt for the invention or part thereof;
- (ii) if, before the filing date of the patent application, the invention was used publicly in; or outside Egypt, or the description of which was disclosed in a manner so as a person having expertise in the art is able to exploit it.

Exclusion according to Art. 3 of the Law No. 82 of 2002 on the Protection of Intellectual Property Rights:

".....According to the provisions of the preceding Article, disclosure shall not include displaying the invention in national or international exhibitions within the six months before the date on which the application was filed...."

And according to Art. 3 paragraph 2 of the Executive Regulations, the applicant has to get a certificate from the Patent office before disclosing his invention in national or international exhibitions/conferences, and the applicant has to submit the patent application within 6 months starting from the date of the certificate.

4. Does the applicable law provide for any category of prior art that is taken into account for patentability purposes notwithstanding that it was not publicly available before the relevant filing or priority date (sometimes referred to as "secret prior art")?

Yes

If yes, please indicate, where applicable, the types of information or documents concerned (for example, earlier-filed patent applications), the relevant date(s) for determining such prior art, as well as any limitations, exclusions, or special rules applicable to such prior art. : • Derived from Article 3 (1) of the Law No. 82 of 2002 on the Protection of Intellectual Property Rights: "An invention shall not be considered wholly or partly new: (i) if, before the filing date of the patent application, a patent application has been filed for the same invention or a patent was already issued in or outside Egypt for the invention or part thereof;"

5. Please provide any additional information that may be relevant to the understanding or application of prior art under the applicable law, including where applicable, any guidance (for example, patent office manuals or guidelines) or key judicial decisions in your jurisdiction with general relevance to applicants or interested parties, captured by patent office practice.

Please upload any document that may be relevant to the understanding or application of prior art under the applicable law.

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

Law No. 82 of 2002 on the Protection of Intellectual Property Rights regulates utility models under Article 29 et seq.

While utility models are subject to certain specific provisions, the law does not establish a distinct or separate definition of prior art for utility models rather than what mentioned in article 3.

Furthermore, Article (40) of the same law provides that:

"The provisions applicable to invention patents shall apply to any matter which is not specifically provided for in relation to patents of utility models."

B. Novelty

1. How is the requirement of novelty defined under the applicable national or regional law?

Novelty is defined under Article (3) of Law No. 82 of 2002 on the Protection of Intellectual Property Rights through listing a different forms of prior art.

Article (3) provides that:

"An invention shall not be considered wholly or partly new:

- (i) if, before the filing date of the patent application, a patent application has been filed for the same invention or a patent was already issued in or outside Egypt for the invention or part thereof;
- (ii) if, before the filing date of the patent application, the invention was used publicly in; or outside Egypt, or the description of which was disclosed in a manner so as a person having expertise in the art is able to exploit it.

According to the provisions of the preceding Article,

2. For the purposes of assessing novelty under the applicable law, are there any novelty-specific considerations regarding the relevant date or the scope of information taken into account, beyond those addressed in the Prior Art section of this survey?

NO

3. Does the applicable law apply an absolute novelty requirement, or does it provide for any limitations or qualifications to novelty (for example, relative novelty or other restricted approaches), apart from any grace period mechanisms addressed separately in this survey?

The patent examination sector applies what called the "Absolute Novelty".

With no provisions of grace period.

4. Apart from the approach described in question 3, are there any specific rules or contextual factors that affect what is taken into account as prior art for the purposes of assessing novelty under the applicable law?

NO

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

Law No. 82 of 2002 on the Protection of Intellectual Property Rights regulates utility models under Article 29 et seq.

While utility models are subject to certain specific provisions, the law does not establish a distinct or separate definition of Novelty for utility models rather than what mentioned in article 3.

Furthermore, Article (40) of the same law provides that:

"The provisions applicable to invention patents shall apply to any matter which is not specifically provided for in relation to patents of utility models."

C. Inventive Step

1. How is the criterion of inventive step or non-obviousness defined under the applicable national or regional law?

Inventive step is not defined in the Law No. 82 of 2002 on the Protection of Intellectual Property Rights.

2. For the purposes of assessing inventive step or non-obviousness under the applicable law, what is the relevant date and what prior art or information is taken into account?

Inventive step is assessed against:

- the filing date of the patent application, or
- the priority date, if a valid priority claim is made .

3. What is the standard applied under the applicable law to determine whether an invention involves an inventive step or is non-obvious, in particular as reflected in the concept of the "person skilled in the art", focusing on how the standard is understood or applied, rather than its formal legal definition?

Inventive step is not defined in the Law No. 82 of 2002 on the Protection of Intellectual Property Rights.

4. Are there any specific rules, limitations, or contextual factors that apply to the assessment of inventive step or non-obviousness under the applicable law?

No

Please indicate, where relevant, whether such rules or factors include geographic or territorial considerations affecting the relevance of prior art (for example, distinctions between domestic and foreign disclosures, uses, or publications, or territorial conditions applicable to particular categories of prior art) or any other particular considerations relevant to the assessment.

Responses should be limited to such contextual factors as they relate to the assessment of inventive step or non-obviousness, without restating general rules on what constitutes prior art.:

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

Law No. 82 of 2002 on the Protection of Intellectual Property Rights regulates utility models under Article (29).

Pursuant to this provision, a utility model patent shall be granted for any technical addition. This requirement differs from that applicable to patents of invention, which require a higher level of inventive step or significant technical progress.

D. Grace Period Mechanisms and Pre-Filing Disclosures

1. Does the applicable law provide for any mechanism under which certain disclosures made before the filing or priority date do not prejudice the patentability of an invention, in particular with respect to novelty and/or the legal effect on prior art?

No

If yes, please identify the relevant legal provisions (in primary and/or secondary legislation) and describe their operation.:

Submission of information concerning other aspects of national/regional patent law

E. Sufficiency of Disclosure

[Disclosure.docx](#)

F. Exclusions from Patentable Subject Matter

[EXCLUSION FROM PATENTABILITY.docx](#)

G. Exceptions and Limitations to Patent rights

[EXEPTIONS AND LIMITATION.docx](#)

Final review before submission

Confirmation of submission

I am aware that by clicking "Submit" below, my responses will be sent to the SCP Secretariat.