

IT – ITALY

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1. Requirements for Deposit

Where an invention regards biological material which is not available to the public and cannot be described in the patent application in such a way as to allow an expert in the field to implement that invention, a sample of the biological material shall be deposited with an International Depositary Authority under the Budapest Treaty, so that the description can be considered sufficient according to Article 51, paragraph 3, of the Italian Industrial Property Code (Legislative Decree No. 30/2005).

The description must specify:

- the relevant information available to the applicant about the characteristics of the biological material;
- the International Depositary Authority where the sample of the biological material has been deposited, as well as the registration number and the date of the deposit.

(Article 162, paragraph 1, of the Legislative Decree No. 30/2005)

The information specified above may be provided within 16 months from the filing date or from the priority date, if a priority is claimed, or earlier in case of anticipated public accessibility of the patent application or notification of it to third parties according to Article 53, paragraphs 3 and 4, of the Legislative Decree No. 30/2005.

2. Time of Deposit

A sample of the biological material shall be deposited no later than the date of filing of the patent application.

(Article 162, paragraph 1a, of the Legislative Decree No. 30/2005)

3. Duration of Storage

The expected minimum storage period is five years from the most recent request of a sample of the deposited biological material received by the depositary authority and, in any case, 30 years from the date of deposit (Rule 9.1, Regulations under the Budapest Treaty).

4. Conditions for the Furnishing of Samples

(i) Time of Availability of Samples

Access to the deposited biological material shall be provided through the supply of a sample, on request of the depositor, only to an independent expert:

- from the date of availability of patent application to the public, according to Article 53, paragraphs 2, 3 and 4 of the Legislative Decree No. 30/2005, until the granting of the patent;

- for a period of 20 years from the filing date if the patent application is rejected or withdrawn.

(Article 162, paragraphs 3a and 3b, of the Legislative Decree No. 30/2005)

(ii) Restrictions Concerning the Furnishing of Samples

The requesting party should undertake vis-à-vis the applicant or the owner

- a) not to make available the sample of the biological material to any third party
- b) to use the sample of the biological material only for experimental purposes unless the applicant or the patent owner expressly waives such an undertaking.

The designated expert is equally responsible for any abuse by the requesting party.

(Article 162, paragraphs 4 and 5, of the Legislative Decree No. 30/2005).