

KR – REPUBLIC OF KOREA

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1. Requirements for Deposit

If an invention involves or uses a microorganism which cannot be easily obtained by any person skilled in the art, the patent applicant must deposit a culture of the microorganism at a depositary institution designated by the commissioner of the Korea Intellectual Property Office or a depositary institution having acquired the status of international depositary authority under the Budapest Treaty, and attach a document certifying that the microorganism has been deposited at an approved depositary institution to the patent application.

Furthermore, the patent applicant shall state in the specifications prescribed in Article 42(2) of the Patent Act, the date of deposit and the deposit number issued by the depositary institution.

(Enforcement Decree of the Patent Act, Article 2, 3)

2. Time of Deposit

The microorganism must be deposited no later than the date of filing of the patent application.

(Enforcement Decree of the Patent Act, Article 2, 3)

3. Duration of Storage

The depositary institution shall store the deposited microorganism for at least 30 years from the date of deposit and at least 5 years after the most recent request for the furnishing of a sample of the deposited microorganism.

(Official KIPO Notification for the Designation of the Depositary Institution)

4. Conditions for the Furnishing of Samples

(i) Time of Availability of Samples

Samples of a deposited microorganism become available to any requesting party from the date of the publication of the patent application or the registration of establishment of the concerned patent right.

The samples may be available, however, before the date of the said publication or the said registration, provided that the requesting party has prepared a written opinion as designated in Article 63(1) of the Patent Act.

(ii) Restrictions Concerning the Furnishing of Samples

The furnishing of samples of a microorganism is only available in the cases where the samples are used for experimental and research purposes. The requesting party should not allow any third party to make use of the deposited microorganism. (Enforcement Decree of the Patent Act, Article 4)