

ES – SPAIN

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1. Requirements for Deposit

If an invention concerns biological material which is not available to the public or involves the use of it, and which cannot be described in the patent application in such a manner as to enable the invention to be carried out by a person skilled in the art, the invention shall only be regarded as being disclosed as prescribed in Article 25.1 if the following requirements are met:

(a) a sample of the biological material has been deposited not later than the date of filing of the application with a recognized depositary institution. In any case, all international depositary institutions having this status in conformity with Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of April 28, 1977, will be recognized.

(Spanish Patent Law, Article 25(2)(a))

2. Time of Deposit

The deposit must be made not later than the date of filing of patent application.

(Spanish Patent Law, Section 25(2)(a))

3. Duration of Storage

No provision.

4. Conditions for the Furnishing of Samples

(i) Time of Availability of Samples

- (1) Biological material deposited in accordance with Article 25 shall be available:
 - a. Before the first publication of the application, only to any person having the right to inspect the files under Article 44.
 - b. Between the date of publication of the patent application and the date of granting, to any person upon request or only by the issue of a sample to an expert nominated by the applicant, if he so wishes.
 - c. After the granting of the application, to any person upon request, even if the patent expires or is refused.
- (2) Said access shall be provided only if the requester has undertaken during the time as the patent application is valid:
 - a. Not to make the biological material or any biological material derived there from available to any third party.
 - b. And to use that material for experimental purposes only, unless the applicant for or proprietor of the patent expressly waives such an undertaking.
- (3) In case of withdrawal or refusal of the patent application, the availability shall be limited, upon request of the applicant and during twenty years, to an independent expert.

(Spanish Patent Law, Article 45)