

FI – FINLAND

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1. Requirements for Deposit

A sample of biological material shall be deposited if the carrying out of the invention involves the use of a biological material which neither is available to the public nor describable in the patent application in such a manner as to enable a person skilled in the art to carry out the invention.

(Patents Act of 1967, Section 8a)

The deposit shall be made with an international depositary authority under the Budapest Treaty or with another depositary authority recognized by the European Patent Office.

(Patents Decree of 1980, Section 17(a))

Within 16 months from the filing date of the patent application or, where priority is claimed, of the date of the claimed priority, the applicant shall inform the Finnish Patent and Registration Office in writing of the name of the depositary authority, and the access code given to the deposit. In case of a PCT application, this information may be filed by the applicant with the International Bureau of WIPO.

In case the applicant makes a request that the application documents be made available to the public earlier than 18 months from the date of filing or, if priority is claimed, from the priority date, the above-mentioned information shall be submitted, at the latest, together with the request for publication.

(Patents Decree of 1980, Section 17(b))

2. Time of Deposit

The deposit of the biological material shall be made no later than on the date the patent application was filed.

(Patents Act of 1967, Section 8(a))

3. Duration of Storage

The deposit shall be made in accordance with the Budapest Treaty (Patents Decree of 1980, Section 17(a)). Therefore, the duration of the storage of the biological material is the same as in Rule 9 of the Budapest Treaty.

4. Conditions for the Furnishing of Samples

(i) Time of Availability of Samples

Samples become available when the patent application is laid open to the public, that is to say, 18 months from the filing date or, if priority is claimed, from the priority date, except when the applicant requests an earlier disclosure of his application.

If the applicant so requests, samples of the deposited biological material are furnished only to an expert, until a patent has been granted or during a period of 20 years from the filing date of the application if a final decision not resulting in the grant of a patent has been taken on the application. Such a request shall be made within 16 months of the filing date of the application or, where priority is claimed, of the claimed priority date. In case of a PCT application the request may be filed by the applicant with the International Bureau of WIPO.

(Patents Act of 1967, Section 22; Patents Decree of 1980, Section 25(b))

(ii) Restrictions Concerning the Furnishing of Samples

The applicant may request that samples of the deposited biological material shall only be available to a special expert, until a patent has been granted or during a period of 20 years from the filing date of the application if a final decision not resulting in the grant of a patent has been taken on the application. An expert is a person who has declared himself willing to act as an expert according to the Finnish Patents Act and whose name is included in a list of experts published by the Finnish Patent and Registration Office. The expert can also be any person approved by the applicant in the individual case.

(Patents Act of 1967, Section 22; Patents Decree of 1980, Section 25(b))

The request for the furnishing of a sample shall be filed in writing with the Finnish Patent and Registration Office and shall contain a declaration of compliance with the following restrictions on the use of the sample:

A person wishing to obtain a sample shall give an undertaking to the applicant or the proprietor of the patent to the effect that no sample containing the deposited biological material or any material obtained from it will be used for other than experimental purposes and that no sample containing the deposited biological material or any material obtained from it will be made available to anyone else before a final decision has been given on the application or, if a patent has been granted, before the patent has expired.

If a sample may be issued only to a special expert, the request for the sample shall state the person to be called upon as an expert. The request shall be accompanied by a written undertaking from the expert to the applicant to the effect that the sample will not be used for

other than experimental purposes and will not be made available to anyone else before a patent granted on the invention has expired or before 20 years have lapsed from the filing date of the application if a final decision not resulting in the grant of a patent has been taken on the application.

The same undertaking as is prescribed with respect to a sample shall also be given with respect to biological material derived from the sample which has retained those characteristics of the deposited biological material that are essential for carrying out the invention.

The undertaking shall be attached to the request.

(Patents Decree of 1980, Section 25(a), Section 25(b))