

## FR – FRANCE

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### 1. Requirements for Deposit

Where an invention using biological matter which is not available to the public cannot be described in such a way as to allow a person skilled in the art to carry out the invention, its description shall be considered inadequate unless the biological matter has been deposited with an authorized body.

(Article L.612-5 of the Intellectual Property Code, as amended by the Law of December 8, 2004)

The description must specify:

1. the information available to the applicant on the characteristics of the microorganism;
2. the authorized body with which a sample of the culture has been deposited, and the number of the deposit.

The information specified in subparagraph 2 of the previous paragraph may be furnished either within 16 months from the filing date or the earliest date of the patent application or, if a priority is claimed, from the date of priority; or when the applicant requests publication of his or her application, if this request is submitted before the expiry of this period.

(Article R. 612-14 of the Intellectual Property Code)

### 2. Time of Deposit

The culture must be deposited not later than the date of filing the patent application.

(Article R. 612-14 of the Intellectual Property Code)

### 3. Duration of Storage

The duration of storage of deposited microorganisms is a minimum of 30 years.

#### 4. Conditions for the Furnishing of Samples

##### (i) Time of Availability of Samples

Any person may ask to have access to a deposited microorganism, either as from the day of publication of the patent application (which takes place 18 months from the filing date or, if a priority is claimed, from the date of priority), or before that date if a copy of the patent application has been conveyed to him or her.

(Decree of 1995, Article R. 612-42)

##### (ii) Restrictions Concerning the Furnishing of Samples

The request must be filed in writing with the National Institute of Industrial Property. It must contain the name and address of the requesting party and an undertaking on his part:

(a) not to communicate the culture or a culture derived therefrom to any person unless the patent application has been refused or withdrawn or the patent has ceased to produce its effects;

(b) to use the culture or a culture derived therefrom solely for experimental purposes, except where the patent application has been refused or withdrawn, or where the fact of grant has been published. Such an undertaking, however, will not prevent the use of the sample by virtue of a compulsory or *ex officio* license.

The applicant for the patent may indicate, by a written declaration made before the completion of the technical preparations for the publication of the patent application that, until the publication of the grant of the patent or the withdrawal or refusal of the application, the deposited culture shall only be accessible to an expert designated by the applicant.

The conditions of accessing the culture and the undertaking by the expert are those mentioned above for the requesting party.

(Articles R. 612-42 and 612-43 of the Intellectual Property Code)