

JP – JAPAN

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1. Requirements for Deposit

If an invention involves or uses a microorganism which is not available to the public, a culture of the microorganism must be deposited with an official depository authority designated by the Commissioner of the Japan Patent Office or with an international depository authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter referred to as the “Treaty”). The International Patent Organism Depository National Institute of Technology and Evaluation (IPOD, NITE) and the National Institute of Technology and Evaluation, Patent Microorganisms Depository (NPMD) are designated as official depository authorities.
(Regulations under the Patent Law, Rule *27bis*)

2. Time of Deposit

A person desiring to file a patent application for an invention involving or using a microorganism shall attach to the request a copy of the latest receipt referred to in Rule 7 of the Regulations under the Treaty for the deposit of the microorganism issued by the international depository authority defined in Article 2(viii) of the Treaty, or a document certifying the fact that the microorganism has been deposited with an institution designated by the Commissioner of the Japan Patent Office or by the non-contracting states of the Treaty, as designated by the Commissioner of the Japan Patent Office, and which allows Japanese nationals to conduct the patent process with respect to the deposit of microorganisms under the same conditions as in Japan, except where the microorganism is readily available to a person skilled in the art to which the invention pertains.

(Regulations under the Patent Law, Rule *27bis*)

3. Duration of Storage

Under the patent practice of Japan, with regard to national deposits, a deposited microorganism is to be kept in storage until the expiration of the relevant patent, whereas, with regard to international deposits, the duration of storage of microorganisms is at least 30 years.

4. Conditions for the Furnishing of Samples

(i) Time of Availability of Samples

A sample of a deposited microorganism becomes available as from the time of registration for the establishment of a patent right.

A sample is available, however, even before the time of the said registration, provided that the requesting party is either:

(a) a person who has received a written warning asking him to pay compensation for having commercially worked the invention involving or using the microorganism in question; or

(b) an applicant who has received notice of refusal from the Japan Patent Office, in which case the applicant must reply to such notice.

(Regulations under the Patent Law, Rule *27ter*)

(ii) Restrictions Concerning the Furnishing of Samples

The furnishing of samples of deposited microorganisms is restricted to the cases where the samples are used for experiments or research purposes. The released sample may not be transferred to third parties.

(Regulations under the Patent Law, Rule *27ter*)