

VN- VIET NAM

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1. Requirements for Deposit

Requirements for Deposit are regulated at Section 23.8.c (i) and (iii), 23.8.d and 23.9.d of the Circular No. 01/2007/TT-BKHCHN of February 14, 2007 guiding the implementation of the Government's Decree No.103/2006/ND-CP of September 22, 2006 detailing and guiding the implementation of a number of articles of the Law on Intellectual Property regarding industrial property (referred below as Circular No.01/2007/TT-BKHCHN).

“23.8. Additional provisions applicable to applications for registration of inventions concerning biotechnologies

(...)

c) An invention for/concerning biological materials, which can neither be described nor adequately described so that any person with average knowledge of biotechnology can create, shall be regarded as being fully disclosed only if it satisfies the following conditions:

(i) The biological material sample is deposited at a depositary authority defined at Section 23.9 of this Circular no later than the filing date;

(...)

(iii) The written declaration clearly defines the depositary authority, the identification number of the deposited biological material issued by the depositary authority, and documents certifying such information shall be submitted to the Intellectual Property Office of Viet Nam within 16 months from the date of priority or no later than the date of filing the request for early publication of application (if any), whichever is earlier, except for the cases specified at Section 23.9.d of this Circular.

d) If the applicant is not the depositor of the biological material, the written declaration must clearly state the name and address of the depositor, and documents certifying the lawful use of the biological material shall be submitted to the Intellectual Property Office of Viet Nam within 16 months from the date of priority, or no later than the date of filing the request for early publication of application (if any), whichever is earlier, except for the cases specified at Section 23.9.d of this Circular.”

“23.9. Deposit of samples of biological materials

d) The deposit of samples of biological materials and certification documents for international patent applications shall comply with the provisions of the Regulations under the Patent Cooperation Treaty (PCT).”

2. Time of Deposit

Section 23.9.b of the Circular No. 01/2007/TT-BKHCN:

“23.9. Deposit of samples of biological materials

b) Samples of a biological material must be deposited to a depositary authority no later than the date of filing the application for registration of an invention concerning that biological material.”

3. Duration of Storage

No provision.

Rule 9.1 of the Regulations under the Budapest Treaty is directly applied:

“Any microorganism deposited with an international depositary authority shall be stored by such authority, with all the care necessary to keep it viable and uncontaminated, for a period of at least five years after the most recent request for the furnishing of a sample of the deposited microorganism was received by the said authority and, in any case, for a period of at least 30 years after the date of the deposit.”

4. Conditions for the Furnishing of Samples

No provision.