

Inventive Step:***(i) The definition of a person skilled in the art***

According to paragraph 1 of Article 2 of the Law of the Republic of Belarus “On Patents for Inventions, Utility Models, Industrial Designs” an invention involves an inventive step if it is for an expert does not obviously follow from the state-of-the-art. However, the legislation of the Republic of Belarus does not define the term person (expert) skilled in the art.

(ii) Methodologies employed for evaluating the inventive step

In accordance with paragraph 469 of Chapter 40 of the Regulation on the procedure of filing an application for a invention patent, carrying out on its examination and making decision on the examination results (hereinafter – Regulation) the methodologies employed for evaluating the inventive step includes:

determination of the closest analogue – aids for the same purpose (prototype);

identification of characteristics that the claimed invention differs from the prototype (distinguishing features);

identification of the state-of-the-art of solutions, which has features identical to the characterizing features of the considered invention.

(iii) having regard to the prior art, the level of inventiveness (obviousness) to meet the inventive step requirement

According to paragraph 471 of Chapter 40 of the Regulation an invention is recognized for an expert explicitly as not having regard to the state-of-the-art, in particular, if solutions are not identified as having features coinciding with its distinguishing features, or such solutions are identified but the known effect of distinguishing features on the specified technical result by the applicant (s) is not confirmed.

In accordance with paragraph 476 of Chapter 40 of the Regulation the confirmation of a certain effect of distinguishing features on the technical result is not required if in respect of these features such a result is not determined by the applicant (s) or if it is established that technical result cannot be achieved. If there is a need on expanding the scope of specific aids and the purpose of the technical result is the realization only of these specific aids, the confirmation of a certain effect of distinguishing features on the technical result is also not required if these features are not necessary for the realization of the stated aids for specific purpose.

Also, pursuant to paragraph 472 of Chapter 49 of the Regulation inventions are not recognized as corresponding to the relevant criteria of inventive step in particular on:

472.1. adding to the known aids of any known part (s) being attached (joined) to them according to certain rules, in order to achieve the technical result, in respect of which the effect of these additions is established, except in cases when both the known technical result and unknown result from the state-of-the-art are achieved;

472.2. replacing of any part(s) of known aids by another aids to obtain the technical result, in respect of which the effect of such substitution is established;

472.3. excluding any part(s) of aids (element, action) caused while excluding its (their) presence function and thus achieving the usual result of such an exception (simplification, reducing weight, dimensions, material consumption, increasing reliability and shortening of the process duration etc.), but if the exclusion of any element(s) its function is not excepted, but moves to another element(s) of the object, and the object functions with the same or better characteristics in the same field, as well as before the exclusion of this element(s), such invention is recognized as complying with the inventive step, if the known information on the remaining elements of the object does not mean that any of them can be functioning as the excluded part;

472.4. increasing the number of the same elements, actions to strengthen the technical result due to the presence in the aids of such elements or actions;

472.5. performing of known aids or its part(s) from the known material to achieve the technical result due to the known properties of the material;

472.6. creating of aids, consisting of known parts, which are selected and the relationship between them are made on the basis of known rules, recommendations, and the achieved technical result is conditioned only by known properties of the parts of these aids and connections between them;

472.7. applying a known device, process, substance or strain for a new purpose if the new purpose is conditioned by its known properties, structure, performance and it is known that these properties, structure, performance are necessary to implement this purpose;

472.8. changing of quantitative feature(s), representing of such features in the relationship, or changing its appearance, if it is known the fact of the effect of each of them on the technical result and the new values of these features or their relationship could be obtained from the known relationships.

According to paragraph 473 of Chapter 40 of the Regulation the following is corresponded to the inventive step:

473.1. methods of preparing of new individual compounds (class, group) with a fixed structure;

473.2. methods of preparing of known compounds (class, group) with a defined structure if they are based on a new reaction for the class or group of compounds or on a known reaction for a given class or group of compounds the conditions of which are not known;

473.3. composition consisting of at least two known ingredients that provides a synergistic effect, the possibility of its achievement is not conditioned by the state-of-the-art (i.e., consisting the properties of two ingredients, but quantitative indicators of at least one of these properties is higher than the properties of the individual ingredients);

473.4. individual compounds falling within the general structural formula of the group of known compounds, but not specifically described as received and investigated while developing new unknown properties in qualitative or quantitative terms (selective invention) for this group.

Sufficiency of Disclosure

(i) enabling disclosure requirement

Pursuant to subparagraph 2 of paragraph 2 of Article 13 of the Law an invention application should contain a description of the invention disclosing it fully enough for the invention.

The structure of the description of the invention is described in paragraphs 51 - 54 of Chapter 7 of the Regulation.

(ii) Support requirement

Pursuant to subparagraph 4 of paragraph 2 of Article 13 of the Law an invention application should contain drawings if they are necessary for understanding of the invention.

Requirements for the provision of graphical information are contained in paragraphs 208-219 of Chapter 17 of the Regulation.

(iii) Written description requirement

As stated above, pursuant to subparagraph 2 of paragraph 2 of Article 13 of the Law an invention application should contain a description of the invention disclosing it fully enough for the invention.

Requirements that should be taken into account when drafting the description are set out in the following paragraphs of the Regulation:

paragraphs 55-64 of Chapter 8 “Title of the Invention. Technical Field of the Invention”;

paragraphs 65-71 of Chapter 9 “State-of-the-art”;

paragraphs 72-96 of Chapter 10 “Concept of the Invention”;

paragraphs 97-99 of Chapter 11 “Brief Description of Drawings”;

paragraphs 100-118 of Chapter 12 “Information Supporting the Possibility of the Invention Implementation Related to a Device, Method, Substance”;

paragraphs 119-129 of Chapter 13 “Information Supporting the Possibility of the Invention Implementation Related to Biotechnology Products, the Use of Device, Method, Substance, Biotechnological Products for a Specific Purpose”.