

Information regarding the inventive step and sufficiency of disclosure

(i) the definition of a person skilled in the art

According to the paragraph 3 of Art. 5, Section II of the Patent Law of the Kyrgyz Republic invention involves an inventive step if it is for a person skilled in the art does not obviously follow from the prior art. Requirements for specialist defining inventive step, established by the Government of the Kyrgyz Republic.

(ii) Methodologies employed for evaluating the inventive step

The special method used to assess the inventive step has not been developed, but there are used articles of laws and regulations that relate to this issue.

According to the paragraph 4 of Art. 5, section II of the Patent Law of the Kyrgyz Republic state of the art comprises any information made available in the world before the priority date of the invention.

According to the paragraph 20.6.1 "Rules for compiling, filing and consideration of the application for a patent for invention" (hereinafter "Rules ...") in determining the level of technology available to the public are considered the information contained in the source of information with which any person may familiarize itself or the contents of which he may be legally reported.

When checking the inventive step over the prior art does not include sources containing publicly available information relating to the invention disclosed by the author, by the applicant or any person who has received from them directly or indirectly this information, if the application for the invention was filed with Kyrgyzpatent no later than twelve months from the date of disclosure of information (item 7 of Art. 5 of section II of the "Patent Law").

Checking inventive step in accordance with the "Rules...." is carried out after the establishment of industrial applicability and novelty of the invention. It is carried out in respect of the invention as defined in the independent claim in accordance p.19.17.9 ("Rules ...").

Since in the course of the examination, the applicant may at its own initiative or at the request of the examination to correct or clarify the application documents without changing the essence of the invention prior to the adoption of an action, the inventive step test is carried out with respect to the independent claim in its latest edition, at the conclusion of the formal examination.

According to the paragraph 19.13.1 of the "Rules ..." verification is carried out concerning of the claims contained in the application at the time of completion of the formal examination of the application, and if it is changed by the applicant after checking if the formula is subject to the requirements specified in subparagraphs 2 -5 paragraph 21 of this Rules.

According to the paragraph 19.13.8 to test patentability formula adopted with amendments confirmed by the applicant.

How to test for compliance with the inventive step is contained in paragraph 19.17. "Rules ...".

1. According to the paragraph 19.17.1 responsible for the claimed invention, the criterion of inventive step rests with the applicant.

According to the paragraph 19.17.2 of the "Rules ..." Kyrgyzpatent during the preliminary examination checks inventive step of the claimed invention, which includes only:

- Identification of the closest analogue based on the applications submitted by the applicant;

- Identification of characteristics which distinguish the claimed invention from the closest analogue (distinctive features);

- Identification issued by the fund before the priority date of security documents of the Kyrgyz Republic for inventions and utility models, as well as published Eurasian applications and patents solutions with features that match the distinctive features of the subject invention.

Established by the rules (Sec. 19.17.2) procedure for verification of inventive step of the invention is only one of the principles of such a test. In practice, expertise, there are situations in which, instead of using the above described procedure checks can use the following rules.

According to the paragraph 19.17.4 of the "Rules ..." is not recognized as complying with the condition of inventive step, based in particular:

- to complement the well-known means of any known part (s) being attached (to join) to it according to certain rules, in order to achieve a technical result, in respect of which it is established the influence of such additions;

- on the replacement of any part (s) to other known means to achieve a certain part of the technical result, in respect of which it is established the influence of such a replacement;

- to the exclusion of any means (member, acting) with simultaneous exclusion of the function due to its presence at the same time and the achievement of such an exception to the usual result (simplification, weight, dimensions, material consumption, increase reliability, reduce the process time and so forth.);

- to increase the number of the same elements, actions to strengthen the technical result due to the presence in the medium is such elements of action;

- means for performing a known or part (s) of the known material to achieve a technical result due to the known properties of the material;

- to provide tools, consisting of well-known pieces, which are selected and the relationship between them made on the basis of known rules, recommendations and achieve

technical result is due only to the known properties of the parts of this means and the connections between them;

- On the use of known device, method, substance or strain for a new purpose if the new appointment is due to its known properties, structure, performance and know that these are the properties, structure, performance necessary to implement this assignment.

The invention cannot be recognized as an inventive step, based on the change in the quantitative trait (s) reporting such symptoms or a change in the relationship of its kind, if you know the fact that the influence of each of them on the technical result and the new values of these attributes or their relationship could be obtained from known characteristics or regularities.

According to the paragraph 19.17.5 condition of inventive step are correspond, in particular:

- methods for the preparation of new individual compounds (class, group) with a fixed structure;

- methods for the preparation of known individual compounds (class, group) with a fixed structure, if they are based on for the new class or group of compounds or a known reaction for a given class or group of compounds of the reaction conditions of which are not known;

- a composition comprising at least two known ingredients providing a synergistic effect, which is not possible to achieve results from the prior art (i.e., exhibiting the properties of both components, but quantitative indicators of at least one of these properties higher than the properties of the individual ingredient);

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

- the invention is not considered as inconsistent with the inventive step because of the seeming simplicity and disclosure in the application materials mechanism to achieve a technical result, if such disclosure was not known in the art, but only from the application materials.

- if identified solutions that are characterized by signs that coincide with the features of the invention, the confirmation of fame of their impact on the technical result is not required if in respect of such signs it is not defined by the applicant.

- if the claimed invention defined in the multi-hop formula, containing dependent items found to comply with the condition of inventive step in the independent claim, further verification of the dependent claims is not performed.

According to the paragraph 19.18.1 of the "Rules ..." if the invention is characterized by multi-tier formula containing dependent items, and to the conclusion of non-patentability in the

independent claim due to lack of inventive step, the applicant shall be notified and invited to express an opinion on the desirability of further consideration of the application with the idea, in the case of confirmation of the feasibility of such adjusted claims.

According to the paragraph 19.18.2 of the "Rules ..." in the case where the patentability of the invention in relation to the independent claim having dependent items, you must ensure that the information contained in these paragraphs characteristic features of the invention does not prevent the implementation of the invention specified by the applicant or destination. In addition, make sure that the invention defined with the involvement of the dependent claims, is not contrary to the public interest, principles of humanity and morality.

If a positive result of the checking for all above mentioned conditions the invention defined by the multclaim formula having dependent claims shall be deemed to be patentable and, if the presence of application for grant of a patent without examination of an application substantially decide to grant a patent. With a negative result of the checking concerning of any of the conditions of the applicant shall be notified in the request and invited to submit arguments to refute the outcome of the examination, or to correct or eliminate these items from the dependent claims.

According to the paragraph 19.18.3 of the "Rules ..." if declared group of inventions, the verification of patentability is made concerning of each of its constituent inventions. Patentability of the group can be ascertained only when all patentable invention group.

If it is determined that not all inventions groups are patentable, the applicant shall be notified and invited to submit their views on the above arguments and, if necessary, to exclude from the formula the independent claims, which are characterized by non-patentable inventions, or to provide these items, as amended.

According to the paragraph 19.18.4 if the applicant provide the changed formula of invention, as mentioned above, the further consideration of the application shall be conducted in accordance with paragraphs 19.13 and 19.14 of this Regulation concerning of the invention (s), characterized in this formula.

According to the paragraph 19.18.5 of the "Rules ..." in the case where the applicant does not argue to refute the conclusion of examination, or a modified formula insists on granting a patent with the previously described formula, further consideration of the application is not carried out and the decision on refusal to grant a patent.

Part IV Verification of the invention to match the patentability inventive step "Guidelines for the examination of the invention" includes general practical aspects of the invention, test procedures for compliance with the criteria inventive step outlined above, in the "Patent Law" of

the Kyrgyz Republic and "Rules of compilation, filing and consideration of the application a patent for an invention."

Sufficiency of Disclosure

(i) Enabling disclosure requirement

Paragraph 4.2.5.1 of the "Rules for compiling, filing and consideration of an application for a patent for invention" contains the requirements for information that reveals essence of invention.

In this section, the claimed invention discloses a way to be able to understand the technical problem and its solution, indicating technical result that can be obtained by carrying out the invention.

For achievement of a technical result, supply all essential features that characterize the invention and necessary for its implementation. Stand out features which distinguish the invention from the closest analogue.

Paragraph 4.2.6. of the "Rules..." contains the requirements for disclosure in the application description data confirming the possibility of the invention.

This section shows the possibility of implementation the invention, with the realization of this purpose by the applicant.

The possibility of the invention, the disclosure of which is characterized by using the feature, expressed the general concept, in particular represented at the level of functional generalizations supported by a description of the application materials directly to the means for implementing such a feature, or methods for production thereof, or an indication of the popularity of such means or methods for production.

This section also contains information supporting the possibility of the implementation of the invention, the technical result, which is specified in the "Summary of the Invention" when describing the problem to be solved. When used for quantitative trait characteristics of the invention, in terms of slot values, it is shown the possibility of obtaining technical result, in this interval.

(iii) written description requirement

Paragraph 2.2. of the "Rules ..." contains the following requirements: "the application shall be submitted to Kyrgyzpatent directly or sent by mail or by fax (with its subsequent presentation of the original), in electronic form, on the computer readable medium (with simultaneous presentation of paper) or by other means of communication".

According section 2, part II «Order of conducting prosecution of an application for a patent for invention" of the application is filed to the human resources and Office Management Division and the office directly by the applicant, his representative or patent attorney or sent by mail or by fax (with its subsequent presentation of the original), electronic a computer readable medium (with simultaneous presentation paper) or by other means of transmission.

References to the above-mentioned documents:

1. The Law of the Kyrgyz Republic "Patent Law"

<http://patent.kg/index.php/ru/legislation/67-laws/kodeksy-i-zakony-kyrgyzskoj-respubliki/50-zakon-kyrgyzskoj-respubliki-patentnyj-zakon.html>

2. "Rules for compiling, filing and consideration of an application for a patent for invention"

<http://patent.kg/index.php/ru/legislation/sub-legislation/pravila/99-laws/subordinate-legislation/pravila/359-2012-10-10-08-16-56.html>

3. Procedure for conducting the prosecution of an application for a patent for invention

<http://patent.kg/index.php/ru/legislation/dep-act/102-laws/dep-act/poryadki-po-vedeniyu-deloproizvodstva/1029-poryadok-vedeniya-deloproizvodstva-po-zayavke-na-vydachu-patenta-na-izobrenie1.html>