

Reply from INNORPI to WIPO circular C.8403 dated December 15, 2014 relating to the criteria of inventive step and sufficiency of disclosure

The articles of Law No. 2000-84, dated August 24, 2000, relating to patents and mentioning the terms “person skilled in the field”, “inventive step” and “sufficiency of disclosure” are:

Article 5 : An invention shall be deemed to involve inventive step where it is not obvious for a person skilled in the field concerned in comparison with the state of the art on the filing date of the patent application, or where applicable on the priority date validly claimed for it. The state of the art shall be considered as a whole, including not only the separate elements of the state of the art or parts of those elements considered separately, but also combinations of such elements or parts thereof where such combinations are obvious to a person skilled in the field concerned.

Article 21 : The application shall comprise:

- A request,
- A description of the invention in duplicate,
- One or more claims in duplicate specifying the novel feature or features of the invention,
- One or more drawings if required for the understanding of the description,
- A descriptive abstract of the invention.

The request shall specify the title of the invention, the surname and forename of the applicant and his address, the surname and forename of the inventor, and where applicable, the surname, forename and the address of the agent.

The description of the invention shall be sufficiently clear and complete for a person skilled in the corresponding field of technology to carry it out.

The claims shall be based on the description and shall specify the extent of the patent protection sought.

The descriptive abstract shall briefly set forth the main technical features of the invention. It shall serve the purpose of technical information alone.

Inventive step :

Tunisian law has not defined the term “person skilled in the field.” However, this question is dealt with in Articles 5 and 21 of the above.

The examination carried out by INNORPI does not include evaluation of inventive step. It is, however, carried under Article 30 of Law No.2000-84.

Sufficiency of Disclosure :

During examination of the application, l’INNORPI checks sufficiency of disclosure under Article 20 of Law No. 2000-84.

Legal Decisions :

According to national legislation, a period of two months from the publication date of the patent application is provided for an appeal by a third party. The appeal must be brought before the courts who inform the Institute (INNORPI) of said appeal in order to suspend the granting of the patent.

However, so far INNORPI has never received any such appeals.

Consequently, we do not have any legal precedents in this field.