

[English translation by WIPO]

SUBJECT: STANDING COMMITTEE ON THE LAW OF PATENTS (SCP)

SCP/12/3 Rev. 2: Report on the International Patent System

PRIOR ART

1. The body of technical knowledge that has been made public by oral or written description, by ~~exploitation~~ use or by any other means of dissemination or information both within the country and abroad;
2. In order to determine whether the invention is new, all patent applications filed in Mexico prior to the filing date (or of recognized priority where applicable) (priority date) and still pending being processed will be included in the state of the art, even though the publication referred to in article 52 occurs at a later date.

NOVELTY

The invention is new ~~where~~ if it is not in the state of the art.

INVENTIVE STEP (OBVIOUSNESS)

The invention shall result from an inventive activity. The inventive activity means the creative process the results of which are not obviously deducible from the state of the art by a technical expert in the field ~~person skilled in the relevant art.~~

GRACE PERIOD

1. Disclosure of an invention shall not establish lack of novelty when, within the 12 months prior to the filing date (priority date), the inventor or ~~the~~ his successor to his rights in interest has made the invention known by any means of communication, by putting the invention into practice or by having displayed it at a national or international exhibition.
2. When the corresponding application is filed, the evidentiary documents shall be included. The publication of an invention contained in a patent application or patent granted by a foreign office shall not be deemed to come within the scope of ~~considered as included in the circumstances referred to in this article~~ the previous paragraph.
- 3.- When filing the application, the applicant must declare that the invention has not been disclosed in accordance with the terms of paragraph 1 above.

SUFFICIENCY OF DISCLOSURE

The description of the invention shall be sufficiently clear and complete to be fully understood and where appropriate to serve as a guide for a person with average skill in the art to make it; it shall also mention the best method known to the applicant of carrying out the invention when this is not clear from the description thereof.

EXCLUSIONS FROM PATENTABLE SUBJECT MATTER

1. Essentially biological processes for the production, reproduction and propagation of plants and animals, biological and genetic material as found in nature, animal breeds, the human body and the living parts composing it, and plant varieties.
2. Theoretical or scientific principles.



3. Discoveries that consist in making known or revealing something that already existed in nature, even though it was previously unknown to man.
4. Schemes, plans, rules and methods for carrying out mental ~~processes~~[acts](#), playing games or doing business, and mathematical methods.
5. Computer programs.
6. Forms of presenting information.
7. Esthetics creations and artistic or literary works.
8. Methods of surgical, therapeutic or diagnostic treatment applicable to the human body and to animals.
9. Juxtaposition of known inventions or mixtures of known products, or alteration of the use, form, dimensions or material thereof, except where in reality they are so combined or managed that they cannot function separately, or where their characteristic qualities or functions have been so modified as to produce an industrial result or use not obvious to a person skilled in the art.
- [10. No patent or registration shall be granted where the contents or form are contrary to public order, morality or decency or infringe any legal provision.](#)

EXCEPTIONS AND LIMITATIONS OF THE RIGHTS

The right conferred by a patent shall not have any effect against:

1. A third party who, in the private or academic sphere and for non-commercial purposes, engages in scientific or technological research activities for purely experimental, testing or teaching purposes, and to that end manufactures or uses a product or a process identical to the one patented;
2. Any person who markets, acquires or uses the patented product or the product obtained by the patented process after the said product has been lawfully placed on the market;
3. Any person who, prior to the filing date (priority date), uses the patented process, manufactures the patented product or has made the necessary preparations for such use or manufacture;
4. The use of the patented invention in transportation vehicles of other countries when it forms part of such vehicles and when the vehicles are in transit on the national territory;
5. A third party who, in the case of patents relating to live material, makes use of the patented product as an initial source of variation or propagation to obtain other products, except where such use is made in repeated form;
6. A third party who, in the case of patents relating to products consisting of live material, uses, brings into circulation or markets the patented products for purposes other than multiplication or propagation, after the said products have been properly placed on the market by the owner of the patent or by a licensee;
7. Compulsory licenses.