

Republic of Moldova
State Agency on Intellectual Property (AGEPI)

We hereby present answers to the questions requested in circular C. 9141 of 07.12.2022, addressed to AGEPI by the SCP secretariat

(i) In the Republic of Moldova, in Law 50/2008 on the Protection of Inventions, Article 22 paragraph (1) letter d) and e) provides for:

Art. 22 ((1) d) and e)) Limitation of Effects of a Patent

d) use of the subject-matter of a patented invention on board of any foreign vessel of a State party to the international conventions in the field of inventions to which the Republic of Moldova is also party which temporarily or accidentally enters the waters of the Republic of Moldova, provided that the invention is used exclusively for the needs of the vessel;

e) use of the subject-matter of the patented invention in the construction or operation of foreign aircraft or land vehicle or other means of transport of a State party to the international conventions in the field of inventions to which the Republic of Moldova is also party, or in the manufacture of spare parts for such vehicles when such means of transport temporarily or accidentally enter the territory of the Republic of Moldova;

(ii) In Law 50/2008 on the Protection of Inventions, Article 36 Disclosure of the Invention provides that:

(1) The patent application shall disclose the invention in a manner sufficiently scientifically and technically clear, complete and correct for it to be carried out by a person skilled in the art.

(2) Where the invention refers to biologically reproducible material which is not available to the public, the conditions referred to in paragraph (1) shall only be fulfilled if the applicant proves with a document that, prior to the filing date of the patent application or the acknowledged priority, the biological material has been deposited with an international depositary authority or a depositary institution designated by the Government.

At the same time, in Rules 48-50 of the Regulations on the Procedure of Filing and Examination of a Patent Application and of Issuance of a Patent, adopted by Government Decision 528/2009, it is stipulated that:

48. The invention is considered to meet the requirements of Article 36, paragraph (1), of the Law, if it is disclosed in a manner sufficiently clear, complete and correct from the technical-scientific point of view for it to be, on the basis of the information the application contains at the filing date, carried out and used by a person skilled in the art, as claimed, without any additional inventive step. The applicant shall specify the best way of carrying out the invention known to the inventor at the filing date or, where priority has been claimed, at the priority date.

49. If the invention concerns reproducible biological material which is not available to the public and which cannot be described in the patent application in such a manner as to enable the invention to be carried out by a person skilled in the art, the patent application shall contain an attestation certifying the deposit of that biological material with the National Collection of Nonpathogenic Microorganisms, the Regulations of which is approved by the Government Decision No. 56 of January 26, 2004, (Official Gazette of the Republic of Moldova, 2004, No. 22-25, Art. 184) or with a depositary institution having the status of international depositary authority.

50. The availability of deposited biological material shall be effected by the issue of a sample of the biological material:

1) prior to the publication of the patent application:

a) at the request of the AGEPI, if such sample is necessary for the patenting procedure or if the patent application is in a litigation before AGEPI;

b) to the applicant, upon his request;

c) to any authority or any natural or legal person authorized by the applicant;

d) to any person having the right to inspect the files under Article 96, paragraph (2), of the Law;

2) between the publication of the application and the grant of the patent – to any requester or, at the request of the applicant – only to an independent expert;

3) after the grant of the patent even in the case of revocation or cancellation thereof, to any requester.

(iii) Regarding the accelerated examination in the Republic of Moldova, we can mention the following:

According to Article 51 paragraph (2) of Law 50/2008 on the Protection of Inventions, it is stipulated that the substantive examination of the patent application shall be carried out within 18 months, excluding the time limits for correspondence and subject to the compliance with the provisions of Article 48. A request for substantive examination may be filed prior to the expiry of 30 months following the filing date of the patent application or following the date of entry into the national phase. The request shall only be deemed to be filed on payment of the examination fee and may not be withdrawn.

At the same time in Article 93 paragraph (1), the procedures carried out by the AGEPI in respect of patent applications and granted and issued patents, specified in this Law and in the Regulations, shall be subject to the levying of patent fees. Any procedure carried out on the basis of an application shall be deemed requested from the date of payment of the prescribed fee, and in Article 93, paragraph (7), it is provided that where urgent execution of the procedures for substantive examination and search is requested, the fees payable for the urgency shall increase by 100% as compared to the established fee for the respective procedure, and the term for the execution of the respective actions shall decrease by halves, so the accelerated examination can be carried out within 9 months from the request and payment of the fee.

(iv) According to Article 14 paragraph 1 of Law 50/2008 on the Protection of Inventions, the right to a patent shall belong to the inventor or his successor in title, and in Article 17 paragraph (1) of the same Law it is stipulated that the natural person whose creative work has led to the invention shall be deemed the inventor (author of the invention), so the inventor can only be a natural person and by no means Artificial Intelligence, at the same time Article 36 paragraph (1) of the same Law provides that the patent application shall disclose the invention in a manner sufficiently scientifically and technically clear, complete and correct for it to be carried out by a person skilled in the art, so the operating algorithm must be disclosed in the case of computer-generated inventions.

Respectfully,
Justin Viorel
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State Agency for Intellectual Property