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Royal Decree 316/2017, of March 31, approving the Regulations for the execution of Law 24/2015, of July 24, on Patents.

Ministry of the Presidency and for Territorial Administrations
"BOE" No. 78, of April 1, 2017
Reference: BOE-A-2017-3550

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CONSOLIDATED TEXT

Last modification: no modifications

The seventh final provision of Law 24/2015, of July 24, 2015, on Patents (hereinafter, the Law) authorizes the Government to issue the necessary provisions for its development and application. By virtue thereof, the present regulation has been drafted, which gives continuity and effectiveness to the novelties introduced by the Law.

This Royal Decree approves the Regulations for the implementation of Law 24 / 2015 of July 24, 2015, on Patents, necessary development to achieve the objectives of that Law, in particular, by establishing a strong patent granting system, generating legal certainty by bringing together in two rules the previous regulatory dispersion in the field, improving regulatory clarity, making procedures more flexible and streamlined, adapting and modernizing aspects such as professional representation before the Spanish Patent and Trademark Office, boosting innovation and support for small and medium-sized enterprises (SMEs) and entrepreneurship.

The Regulation, which is approved by this Royal Decree, consists of one hundred and fifteen articles, divided into eleven titles, six additional provisions and an annex.

Title I deals entirely with patents of invention and is divided into five chapters. Chapter I is devoted to the patent application and the different documents that comprise it, as well as its drafting and content. Chapters II to V deal with the development of the different procedures for the processing of the patent, from its application to the granting and subsequent opposition, possible appeals as well as the processing of revocation or limitation and other procedures.

In this regard, Chapter II contains the regulatory provisions relating to the granting procedure and divides them into three sections: the first section, on admission for processing and ex officio review; the second section, on the State of the Art Report and the written opinion; and the third section, on substantive review and resolution of the procedure.

Chapter III continues with the opposition procedure in accordance with the provisions of the Law, which places the opposition procedure at a time subsequent to the grant. Chapter IV deals with the revocation or limitation procedure. In both cases, this is a novel and unprecedented regulation within the Spanish patent grant procedure, and therefore, for its drafting, the Implementing Regulations of the Munich Convention of October 5, 1973, as amended by the Act of Revision of the European Patent Convention, done in Munich on November 29, 2000 (hereinafter, 2000 Act), and the practice arising therefrom, have been taken into account. Finally, Chapter V is devoted to the regulation of other procedures and is divided into three sections: section one, on divisional applications; section two, on change of modality; and section three, on secret prosecution of patents of interest to national defense.

Title II refers to supplementary protection certificates for drugs and phytosanitary products, regulating for the first time the procedure for their granting.

Title III deals with utility models and is divided into two chapters, referring respectively to the various steps in the grant procedure and to practical matters relating to the mandatory report for the exercise of legal actions provided for in Article 148.3 of the Law.

Title IV regulates aspects common to the previous modalities. In particular, Chapter I refers to the amendment of the application and other documents and rectification of errors; Chapter II to measures regarding time limits; and Chapter III to the actions of the Spanish Patent and Trademark Office as patent registry and its public information activity.

Title V is structured in two chapters. Thus, Chapter I covers the registration of assignments, licenses and other modifications of rights. Chapter II, for greater coherence and systematicity, regulates the registration of the offering of licenses of

The holder of the licensee's full rights, separating this matter from that relating to compulsory licenses.

Title VI includes the regulation of the application for a compulsory license, its types and the procedure for its processing, adapting all of the above to the novelties introduced by the Law.

In Title VII, for reasons of systematicity, the issues related to forfeiture are unified, including the instruction of the corresponding proceedings for lack or insufficiency of exploitation and waiver by the patent holder.

Title VIII transfers the regulation of aspects necessary for the application of international conventions contained in other regulations of lower rank than Law that had entered into force after the enactment of Law 11/1986, of March 20, 1986, on Patents, in view of the obligation to comply with international commitments. Chapter I is devoted to the application of the Convention on the Grant of European Patents (Munich, October 5, 1973), according to its version after the amendments introduced by the 2000 Act, and Chapter II is devoted to the application of the Patent Cooperation Treaty (Washington, June 19, 1970), according to its latest version in force.

Title IX expressly provides the procedure for the effectiveness of the provisions of articles 11 to 13 of the Law in favor of the third party whose right to the patent application or registration was recognized in the exercise of a claim action. In particular, it is intended to favor legal certainty and to link the suspension of article 11.3 of the Law to the patent grant procedure, taking into account that the plaintiff whose right was recognized with respect to an application not yet granted, may opt for subrogation, filing of a new application or refusal of the pending application.

Title X contains the provisions that develop some aspects of the Law regarding fees, in particular, the reduction of article 186.1 of the Law and the fee reduction for Public Universities in section 2 of the tenth additional provision of the Law.

Finally, Title XI regulates the representation before the Spanish Patent and Trademark Office, in particular, the legal regime of Industrial Property Agents. In this regard, the requirements for access to the profession and their relations with the Spanish Patent and Trademark Office are established.

Regarding the additional provisions, the first additional provision states that, by virtue of the specialty of the procedures in industrial property matters, the procedures regulated in the Law are excluded from Law 39/2015, of October 1, 2015, on the Common Administrative Procedure of the Public Administrations, except for what is not provided for in its specific regulations. This specialty is due, on the one hand, to the very nature of the rights subject to protection and, on the other hand, to the obligations assumed by Spain through different International Treaties, such as, for example, the Patent Law Treaty of June 1, 2000 (done at Geneva on June 1, 2000).

The second additional provision empowers the Spanish Patent and Trademark Office to establish official models for any application or documentation addressed to it and to establish the formal and technical requirements for electronic filing. In this regard, this provision obliges Industrial Property Agents to relate with the Spanish Patent and Trademark Office by electronic means. Finally, for purely clarifying purposes, it is indicated that the place of filing of any document, not only the patent application, shall be filed in the places or by the means provided for in Article 22 of the Law.

The third additional provision provides that the Spanish Patent and Trademark Office shall make available to the public a list of the Digital Libraries accepted by them, for the appropriate purposes provided for in the Regulations.

The fourth additional provision contains an authorization in favor of the Spanish Patent and Trademark Office to issue certificates and authorized copies in electronic format, as well as to make such authorized copies available in digital libraries, basically including the provisions for distinctive signs and industrial designs.

The fifth additional provision clarifies the content and the term within which the expert report of the Spanish Patent and Trademark Office must be issued pursuant to Article 120.7 of the Law. In addition, it is specified that, if the report is requested at the request of a party, the following shall be granted

a correction period for the payment of the corresponding fee, in the event that payment has not been made.

Next, the sixth additional provision, in development of the provisions of Article 136 of the Law, regulates certain aspects related to the extrajudicial resolution of disputes, enabling the Spanish Patent and Trademark Office to enter into agreements on this matter with national, European and international organizations.

Finally, an annex to the Regulation is included, which deals with the formal requirements of the patent application.

This Royal Decree and the executive regulation it approves are issued under the exclusive state competence on industrial property legislation, provided for in Article 149.1.9 of the Constitution.

In the processing of this Royal Decree, the interested sectors have been heard and, on the other hand, the National Commission of Markets and Competition and the General Council of the Judiciary have issued a report.

By virtue thereof, at the proposal of the Ministers of Energy, Tourism and Digital Agenda and of Finance and Public Function, in agreement with the Council of State and after deliberation of the Council of Ministers at its meeting of March 31, 2017,

PROVIDED:

Sole Article. *Approval of the Implementing Regulations of Law 24/2015, of July 24, 2015, on Patents.*

The Regulation for the execution of Law 24/2015, of July 24, 2015, on Patents, the text of which is inserted below, is hereby approved.

Sole derogatory provision. *Repeal of regulations.*

1. All provisions of equal or lower rank are hereby repealed insofar as they contradict or oppose the provisions of the Regulations approved by this Royal Decree.

2. The following provisions are expressly repealed:

a) The Regulations for the execution of Law 11/1986, of March 20, 1986, on Patents, approved by Royal Decree 2245/1986, of October 10, 1986.

b) Royal Decree 2424/1986, of October 10, 1986, on the application of the Convention on the Grant of European Patents.

c) The Regulation on procedures relating to the granting, maintenance and modification of industrial property rights, approved by Royal Decree 441/1994, of March 11, 1994.

d) Royal Decree 1123/1995, of July 3, 1995, for the application of the Patent Cooperation Treaty (made in Washington on June 19, 1970).

e) Royal Decree 812/2000, of May 19, 2000, which establishes the application of the grant procedure with prior examination for patent applications in the food sector.

f) Royal Decree 996/2001, of September 10, 2001, which establishes the general application of the procedure for granting national patents with prior examination.

First final provision. *Amendment of Royal Decree 1270/1997, of July 24, 1997, which regulates the Spanish Patent and Trademark Office.*

Article 3 of Royal Decree 1270/1997, of July 24, 1997, which regulates the Spanish Patent and Trademark Office, is amended to include the following new paragraph:

"6 bis. To perform, as a mediating and arbitration institution, in accordance with the provisions of Law 5/2002, of July 6, 2002, on mediation in civil and commercial matters and Law 60/2003, of December 23, 2003, on Arbitration, the functions of resolving conflicts relating to the acquisition, use, contracting and defense of the

industrial property rights in those matters not excluded from the free disposition of the parties according to law.

By order of the Minister of Energy, Tourism and Digital Agenda, following a proposal from the Spanish Patent and Trademark Office, the operation of the Office as a mediating and arbitration institution shall be developed."

Second final provision. *Modification of the Regulations for the execution of Law 20/2003, of July 7, 2003, on the Legal Protection of Industrial Design, approved by Royal Decree 1937/2004, of September 27, 2004.*

The Regulation for the execution of Law 20/2003, of July 7, 2003, on the Legal Protection of Industrial Design, approved by Royal Decree 1937/2004, of September 27, 2004, is amended as follows:

One. Paragraph 5 of Article 6 of the Regulation is amended to read as follows:

"5. At the same moment of receipt, the application shall be digitalized and the competent body shall issue to the applicant a receipt accrediting the filing, which shall state the file number, the representation, description or other identification of the design, the nature and number of the documents filed and the place, day, hour and minute of its receipt. In case of multiple applications, the receipt shall identify, at least, the first design, and shall indicate the number of those submitted. Once the concordance between the digitalized copy and the original documents has been verified, these shall be returned to the interested party."

Two. Paragraph 3 is added to Article 7 of the Regulations, which shall read as follows:

"3. Neither the filing of the copy of the earlier application nor the translation shall be necessary when the priority claim is not considered relevant to determine the validity of the registered design or the earlier application or its translation are already in the possession of the Spanish Patent and Trademark Office or are available in a digital library."

Three. Paragraph 1 of Article 27 of the Regulations is amended, which new wording is as follows:

"1. Once the period for filing oppositions has ended, the opposition briefs and the documents and evidence submitted shall be transferred to the owner of the registered design so that he may present his arguments within a period of two months and, where appropriate, modify the design in the cases and under the conditions provided for in Article 35.2 of Law 20/2003, of July 7."

Third final provision. *Competent title.*

This Royal Decree is issued under the exclusive state competence on industrial property legislation, provided for in Article 149.1.9 of the Constitution.

Fourth final provision: *Modification of formalities set forth in the Annex to the Regulations.*

1. By order of the Minister of Energy, Tourism and Digital Agenda, the documents and formal requirements specified in the annex to the Regulations for the execution of the Patent Law may be modified.

2. The Director of the Spanish Patent and Trademark Office may, by means of a resolution, adopt guidelines for the uniform processing of the files governed by the Regulations approved by this Royal Decree.

Fifth final provision. *Development of articles 154.2 and 169.2 of the Patent Law.*

1. By order of the Minister of Energy, Tourism and Digital Agenda, following a report to the Government Delegate Commission for Economic Affairs, within a period of twelve months from the date of entry into force of this Royal Decree, the requirements and conditions under which other authorized persons, other than those expressly empowered by Articles 154.2 and 169.2 of the Patent Law, may make the translations of European patents and international patent applications referred to in said articles, shall be determined.

2. Once this twelve-month period has elapsed without the corresponding order having been issued, they shall be entitled to carry out the translations referred to in articles 154.2 and 154.3.

169.2 of the Patent Law, professionals whose degree qualifies them to perform translations in the foreign language for which the translation is required, as well as those who have a degree that has been taught entirely in the language for which the translation is required.

3. In any case, the authenticity and accuracy of the translations mentioned in this provision must be guaranteed.

Sixth final provision. *Safeguard clause.*

The measures included in the Regulation approved by this Royal Decree will be met with the ordinary budgetary allocations of the agency and may not involve an increase in allocations or remuneration or other personnel expenses in the service of the public sector.

Seventh final provision. *Entry into force.*

This Royal Decree shall enter into force on April 1, 2017.

Given in Madrid, on March 31, 2017.

FELIPE R.

The Vice-President of the Government and Minister of the Presidency and for Territorial Administrations,
SORAYA SÁENZ DE SANTAMARÍA ANTÓN

REGULATION IMPLEMENTING LAW 24/2015, OF JULY 24, 2015, ON PATENTS.

TITLE I

Patents of invention

CHAPTER I

Patent application

Article 1. *Patent application.*

In order to obtain a patent of invention, the application referred to in Article 23 and following of Law 24/2015, of July 24, 2015, on Patents (hereinafter, the Law) must be formulated, subject to what is determined in the following articles.

Article 2. *Requirements for the filing of a patent application.*

1. The application for the patent, which shall be formalized on an official model, shall be addressed to the Director of the Spanish Patent and Trademark Office and shall contain the following data:

- a) Indication that a patent of invention is requested.

b) The identity of the applicant. If there are several applicants, the identity of each of them shall be stated. When the applicant is a natural person, he/she shall be identified by his/her name and surname(s), identity document, address and nationality; and when he/she is a legal person, he/she shall be identified by his/her full corporate name or, in accordance with the legal provisions governing him/her, his/her Tax ID number, address and nationality.

In the event that there are several applicants, the address or means of communication of one of them shall be specified for notification purposes; otherwise, notifications shall be addressed to the applicant mentioned first in the application.

c) Without prejudice to the provisions of Article 175.2 of the Law, in the event that the applicant acts on his own behalf and has no domicile or registered office or serious and effective commercial establishment in the territory of the Spanish State, he must designate, for notification purposes, a postal address in Spain or indicate that notifications be sent to him by any other technical means of communication accepted by the Spanish Patent and Trademark Office.

d) Title of the invention, in which, without fancy names and as clearly and concisely as possible, appears the technical designation of the invention, which must be congruent with the claims.

e) The designation of the inventor or inventors, with indication of their name and surname or surnames; in the event that the applicant is not the inventor or the only inventor, it shall be indicated how he has acquired the right to the patent in relation to each one of the inventors.

f) List of documents accompanying the application.

g) The signature of the applicant or his/her representative.

2. If applicable, the application must be completed with the following information:

a) When the applicant acts by means of a representative, his identity shall be indicated, in accordance with paragraph b) above. In the event that the representative is an Industrial Property Agent referred to in Article 176 of the Law, only the name and surname of the Agent, natural person, or the corporate name of the legal entity through which the Industrial Property Agent carries out his activity shall be indicated, mentioning the Agent code granted by the Spanish Patent and Trademark Office.

b) In the case where a divisional patent, a change of mode, a conversion of a European patent application or a national phase entry of a PCT international application is requested, the number and date of the original application shall be indicated. It shall also be indicated that the applicant is entitled to file the said application.

c) Where the application refers to a previously filed application as provided for in Article 24(1)(c) and (2) of the Law, the number of the said previous application, the filing date and the office with or for which it was filed shall be indicated. It shall also be indicated that the applicant is entitled to file the said application.

d) In the event that the inventor or inventors waive their right to be mentioned as such, this shall be indicated in the application or, if the inventor or inventors do not coincide with the applicant, a declaration of waiver signed by them shall be provided.

e) In the event that one or more foreign or national priorities are claimed, the application must contain the number of each of the previous applications on which the priority is based, as well as the State and date of priority claimed. It shall also state that the applicant is entitled to claim the priority indicated.

f) If the invention has been exhibited at official or officially recognized exhibitions within the meaning of Article 7.b) of the Law, the request shall contain the name of the exhibition, as well as the place and date of exhibition.

g) When the invention refers to a biological material not accessible to the public, or to its use, and cannot be described in the patent application, and this has been deposited in an institution legally recognized for that purpose, the deposit institution, the country, the date of deposit and the deposit number granted by the deposit institution must be indicated.

h) When the invention refers to biological material, its geographical origin or the source of origin of such material, if known, shall be indicated.

Where the invention concerns a genetic resource or traditional knowledge associated with such a resource covered by Regulation (EU) No. 511/2014 of the European Parliament and of the Council.

European and Council of 16 April 2014 on compliance measures for users of the Nagoya Protocol on access to genetic resources and fair and equitable sharing of benefits arising from their utilization in the Union, it shall be indicated whether a genetic resource or traditional knowledge associated with such resource has been used. If yes, where appropriate, the registration number justifying the submission of the due diligence statement in accordance with Article 14. 3 Royal Decree 124/2017, February 24, on access to genetic resources from wild taxa and control of utilization shall be stated.

In any case, this information shall not prejudice the validity of the patent, as provided in Article 23.2 of the Law.

i) When the application contains lists of amino acid and nucleic acid sequences, this circumstance shall be indicated.

j) If the fee reduction provided for in article 186 of the Law is requested, this must be mentioned.

k) If the applicant is a public university, this should be mentioned.

Article 3. Content of the description.

1. The description shall be drafted as concisely and clearly as possible, without unnecessary repetitions, and in congruence with the claims.

2. It shall include the following information:

a) The indication of the field of technology to which the invention refers.

b) The indication of the prior art prior to the priority date, known to the applicant and which may be useful for the understanding of the invention and for the preparation of the prior art report and for the examination, citing, to the extent possible, the documents that serve to reflect the prior art.

c) An explanation of the invention, as characterized in the claims, allowing the understanding of the technical problem posed, even if not expressly so designated, as well as the solution thereto, indicating, if applicable, the advantages of the invention in relation to the prior art.

d) A brief description of the content of the drawings, if any.

e) A detailed account of at least one embodiment of the invention, which may be illustrated by examples and references, if any, to drawings, if any.

f) The indication of the way in which the invention is susceptible of industrial application, unless it is evident from the description or the nature of the invention. In the supposition that the invention consists of a total or partial sequence of a gene or of a nucleic acid sequence, as provided for in the third paragraph of the article

5.5 and Article 5.6 of the Law, respectively, the industrial application must be explicitly stated.

3. The description shall be presented in the manner and in the order indicated in paragraph 2 of this article, unless, for reasons due to the nature of the invention, a different manner or order allows a better understanding and a more concise presentation.

Article 4. Requirements of the description in the inventions referred to biological matter.

1. When the invention refers to a biological material, the applicant shall indicate, in the description, the name of the authorized institution where a sample of the biological material has been deposited and the identification number or key of said biological material by the authorized institution.

2. If the deposited biological material ceases to be available at the recognized depositary authority, accessibility shall be deemed not to have been interrupted provided that a new deposit has been made under the same conditions as those provided for in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (done at Budapest on April 28, 1977) and that, within four months from the date of the new deposit, a copy of the receipt of the new deposit has been communicated to the Spanish Patent and Trademark Office.

deposit issued by the deposit authority, accompanied by the indication of the patent application or patent number.

3. The communication of this information implies the irrevocable consent of the applicant to make the biological material accessible to the public in accordance with Article 56 of the Law.

Article 5. Conditions for public access to biological material.

1. Access to the deposited biological material shall be granted, within the time limits provided for in Article 56 of the Law, by sending a sample of the biological material requested, provided that the person requesting access to the biological material undertakes to give an undertaking to the applicant or owner of the patent:

a) Not to communicate or deliver to third parties the biological material that is the object of the patent or a crop derived from it, before the patent application has been denied or withdrawn, or is considered withdrawn or the patent has expired.

b) Not to use the biological material that is the subject of the patent or a culture derived therefrom, other than for experimental purposes until the date on which the patent application is rejected or withdrawn, or considered withdrawn, or until the date of publication of the mention of the grant of the patent.

2. When, for any reason, the authorized institution cannot send samples of the deposited biological material, the provisions of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and its Implementing Regulations (done at Budapest on April 28, 1977) shall apply.

3. The provisions of the preceding paragraphs shall be without prejudice to the application of Articles 6 and 7 of Royal Decree 124/2017, of 24 February, on access to genetic resources from wild taxa and control of utilization, when dealing with material regulated by Articles 71, 72, 74, 80 and 81 of Law 42/2007, of 13 December, on Natural Heritage and Biodiversity.

Article 6. Figure of the independent expert.

1. The applicant may make a request to the Spanish Patent and Trademark Office until the completion of the technical preparations for the publication of the patent application, so that the access to the deposited biological material referred to in Article 56 of the Law is carried out only through the supply of the sample to an independent expert. This access is carried out within the following terms:

a) Until the publication of the mention of the patent grant or, when applicable,
b) For twenty years from the date of filing, if the application is denied or withdrawn, or deemed withdrawn.

2. He may be appointed as an independent expert, for the purposes of the provisions of Article 56 of the Law:

a) Any natural person, provided that the petitioner demonstrates at the time of making the petition that such appointment has the approval of the patent applicant.

b) Any natural person who has been recognized as an independent expert by the Director of the Spanish Patent and Trademark Office.

The appointment shall be accompanied by a declaration of the independent expert whereby he undertakes vis-à-vis the applicant to comply with the provisions of Article 56 of the Law, either until the expiration of the patent or until the date indicated in paragraph b) of section 1 of this Article if the application is refused or withdrawn, or is considered withdrawn. In this sense, the petitioner of the sample shall be considered as a third party and the provisions of article 56.2 of the Law shall apply.

3. The request referred to in paragraph 1 shall be filed with the Spanish Patent and Trademark Office. It shall be ascertained that a patent application has been filed that is

refers to a deposited biological material and that the petitioner or the independent expert appointed by the petitioner is authorized to receive a sample of such material.

Content and form of the claims.

1. The claims shall define the subject matter for which protection is sought in terms of technical features of the invention. Where appropriate, the claims shall contain:

a) A preamble mentioning the object of the invention and the technical features necessary for the definition of the claimed elements but which, combined together, form part of the prior art.

b) A characterizing part which, starting with an expression of the type "characterized by", state the technical characteristics which, in combination with those mentioned in paragraph (a), are to be protected.

2. Without prejudice to the provisions of Article 26 of the Law, the same application may include more than one independent claim of the same category (product, process, device or use), provided that the subject matter of the application consists of:

a) A plurality of interrelated products.

b) Different uses of a product or device.

c) Alternative solutions to a particular problem, when it is not appropriate to include these alternatives in the same claim.

3. Any independent claim shall include the essential features of the invention and may be followed by one or more dependent claims relating to particular embodiments of said invention.

4. Any dependent claim, i.e., one that includes all the features contained in any other claim, should preferably contain at the beginning a reference to the claim on which it depends and then the additional features to be protected. A dependent claim referring to one or more dependent claims is also admissible. All dependent claims referring to a single prior claim, and all dependent claims referring to several prior claims, should be grouped together as far and as appropriate as possible.

5. The number of claims must be adequate and reasonable in view of the nature of the invention for which protection is sought.

6. The claims shall not refer to the description or the drawings to define the technical features of the invention, unless absolutely necessary. In particular, they shall not contain expressions of the type "as described in part... of the description" or "as illustrated in figure... of the drawings".

7. When the patent application contains drawings including reference signs, the claimed technical features shall, preferably, be followed by such reference signs identifying them provided that this contributes to the understanding of the claim. Such signs shall be represented in parentheses and shall not be considered as limiting the claims.

Article 8. *Submission of drawings.*

1. The drawings shall be made in accordance with the requirements specified in the Annex to these Regulations.

2. Schemes of stages of a process and diagrams are considered as drawings.

Article 9. *Summary of the invention.*

1. The abstract referred to in article 29 of the Law shall have a maximum length of one hundred and fifty words, shall indicate the title of the invention and shall contain a concise statement of the contents of the description, claims and, if applicable, the most characteristic drawing, which shall be placed separately from the text of the abstract. Likewise, the chemical formula that, among those appearing in the patent application, may be indicated,

better characterize the invention. The summary should allow an easy understanding of the technical problem posed, the solution provided and the main use or uses of the invention.

2. Both the title and the summary of the invention may be modified by the Spanish Patent and Trademark Office when deemed necessary for the best information of third parties. Said modification will be notified to the applicant in the written opinion.

Article 10. General rules regarding the submission of application documents.

The formal requirements for the presentation of the application and accompanying documents are set forth in the Annex to these Regulations.

Article 11. Prohibited elements.

The patent application may not contain:

- a) Elements contrary to public order and morality.
- b) Denigratory statements concerning third party products or processes or the merit or validity of third party patent applications or patents. Mere comparisons with prior art shall not in themselves be considered disparaging.
- c) Items manifestly extraneous to the application or superfluous.

Designation of the inventor.

1. The designation of the inventor or inventors contained in the patent application shall be included in the publications of the patent application and of the grant, as well as in the brochures referred to respectively in Articles 31 and 35.3 of these Regulations.

2. If the inventor or inventors renounce to be mentioned as such, the signed declaration referred to in Article 2.2.d) of these Regulations shall be provided before the technical preparations for the publication of the patent application are completed.

Priority of the patent application.

1. The declaration claiming a national or foreign priority provided for in Article 31 of the Law shall indicate, as provided for in Article 2(2)(e) of these Regulations, the date of the previous application, the State in or for which it was filed, as well as the number assigned to it. The claim of priority shall imply the payment of the corresponding fee.

2. When the priority claim is considered relevant to determine the patentability of the invention, the Spanish Patent and Trademark Office may require the applicant to provide, within a period of two months from the communication or sixteen months from the earliest priority date claimed, whichever period expires later, a certified copy of the previous application issued by the office of origin, unless said document is in the files of the Spanish Patent and Trademark Office or when it is available from a digital library accepted by the Spanish Patent and Trademark Office. If the previous application was not drafted in Spanish, the applicant shall also provide a Spanish translation of said document within the same term. If the certified copy and, where appropriate, the Spanish translation are not provided within the prescribed period, the right of priority shall not be considered validly claimed.

Correction or addition of a priority claim.

1. An applicant may request the correction or addition of the priority claim in respect of a patent application filed with the Spanish Patent and Trademark Office. The request for correction or addition must be signed and filed within the later of the following terms:

- a) Within sixteen months from the earliest priority date or, where the correction or addition would result in a change to the earliest priority date, within sixteen months from the earliest priority date.

sixteen months from the earliest modified priority date, whichever sixteen-month period expires earlier shall apply;

b) within four months from the filing date of the patent application.

2. If a request for correction or addition is received at the Spanish Patent and Trademark Office after the applicant has requested an early publication under Article 37.2 of the Law, the request for correction or addition shall be deemed not to have been filed, unless the request for early publication was withdrawn before the technical preparations for publication of the patent application have been completed.

3. In the case where a divisional patent, a change of mode, a conversion of a European patent application or a national phase entry of a PCT international application is requested, the time limit for requesting the correction or addition of the priority claim shall be four months from the filing date of the application concerned or sixteen months from the priority date, whichever expires later.

4. The time limits provided for in the preceding paragraphs shall not be subject to extension or request for reinstatement of rights.

5. Before the Spanish Patent and Trademark Office refuses an addition or a correction of a priority claim, it shall grant the petitioner a period of ten days from the publication of the intention to refuse in the "Official Industrial Property Gazette" to submit observations.

Article 15. *Exhibiting at official or officially recognized shows.*

1. In the case foreseen in the second paragraph of article 7.b) of the Law and in article 2.2.f) of these Regulations, the applicant must provide a certification issued by the person designated as the authority in charge of ensuring the protection of industrial property in said exhibition, which certifies that the invention has actually been exhibited therein during the period of its celebration. This certification must also mention the opening date of the exhibition and, if applicable, the date of the first disclosure of the invention if these two dates do not coincide. The certification must be accompanied by the documents that allow the identification of the invention, duly authenticated by the mentioned authority.

2. The deadline for submitting this certification, as well as the accompanying documentation, shall be four months from the date of submission of the application or until the end of the period provided for in Article 24 of these Regulations, whichever period expires later.

CHAPTER II

Granting procedure

Section 1.^a Admission and ex officio examination

Receipt of the application and forwarding to the Spanish Patent and Trademark Office.

1. The body competent to receive the application in accordance with the provisions of Article 22 of the Law shall record the registration number, as well as the day, hour and minute of deposit both in the place designated for this purpose in the application form, as well as in the accompanying documentation, if applicable.

2. At the time of filing, the competent body shall issue to the depositor a receipt certifying the filing of the application, stating the registration number and the place, day, hour and minute of filing. If the application is accompanied by a copy, the receipt shall consist of the delivery of said copy, which shall state the registration number and the place, day, hour and minute of the deposit.

3. When the patent application has been filed with the competent body of an autonomous community, the latter shall forward the application, together with all the documentation provided, to the Spanish Patent and Trademark Office within the period prescribed in Article 32.2 of the Law.

4. Once the application has been received by the Spanish Patent and Trademark Office, it will be assigned a patent application number, which will be notified to the applicant.

Article 17. Requirements to obtain a filing date.

1. For the purposes of the provisions of Article 24 of the Law and Article 18 of these Regulations, it shall be indispensable to submit, in order to obtain a filing date for the patent application, the following documents:

- a) An express or implied indication that a patent is sought,
- b) information to identify or contact the applicant, and
- c) a part that, at first sight, appears to constitute a description, although it does not comply with the formal requirements established in the Law or the Regulations, or an incorporation by reference, i.e., a reference to a previously filed application.

2. For the purposes of obtaining a filing date, the indications of paragraphs a) and b) of the previous section shall be filed in Spanish. However, the description may be written in any language, and a translation into Spanish must be filed within two months from the filing date of the patent application or until the end of the term provided for in Article 24 of these Regulations, whichever term expires later.

3. For the purpose of obtaining a filing date, a reference to a previously filed application shall replace the description and, if applicable, any drawings. In order to make this reference, the applicant, at the time of filing the patent application, shall make a request for incorporation by reference to an earlier application, in which he shall indicate in Spanish:

- a) That the reference to the previous application replaces the description and, if applicable, the drawings.
- b) The number of the previous application, its filing date and the office with or for which it was filed.
- c) That the previous application has been filed by the applicant himself, his predecessor in right or his successor in title.

4. If the patent application refers to an earlier application as foreseen in the preceding paragraph, the applicant must provide, within a period of two months from the date of the filing of the application, a certified copy of the earlier application and, if applicable, a translation into Spanish. It will not be necessary to provide the certified copy of the previous application or the translation into Spanish if said copy or translation is in the files of the Spanish Patent and Trademark Office or is available in a digital library accepted by the Spanish Patent and Trademark Office.

Article 18. Granting of the filing date and admission for processing.

1. Within ten days following receipt of the patent application at the Spanish Patent and Trademark Office, the latter shall examine whether the application meets the requirements necessary to obtain a filing date in accordance with the provisions of Article 24 of the Law and Article 17 of these Regulations.

2. If, when examining the requirements necessary to obtain a filing date, defects are found, they shall be notified to the applicant so that he may correct them and present allegations within a period of two months from the date of notification, with the indication that, if he fails to do so, the patent application shall not be admitted for processing and shall be considered withdrawn.

3. If the defects are corrected in term, the date of presentation will be granted as the one that corresponds to the day in which all the requirements have been fulfilled and thus it will be communicated to the applicant. If the defects are not corrected in due form and within the prescribed period, the application shall not be admitted as a patent application and shall be considered withdrawn. The decision to withdraw shall be notified to the applicant with an indication of the reasons and shall be published in the "Official Bulletin of Industrial Property".

4. Once a filing date has been granted, it will be examined whether the application and prior art report fees have been paid. If it is found that the

The applicant will be notified of the non-payment or insufficient payment of the fees so that he/she may make or complete the payment within a period of one month from the date of publication of the defect in the

The applicant shall be notified of the withdrawal of the application and the decision shall be published in the "Official Bulletin of Industrial Property", stating that if he fails to do so, the application shall be considered withdrawn. The resolution of withdrawal shall be notified to the applicant and shall be published in the "Official Bulletin of Industrial Property".

Incorporation by reference to a previous application.

1. In the event that the applicant has requested incorporation by reference pursuant to the provisions of Articles 24.1.c) of the Law and 17.3 of these Regulations, but has not provided the certified copy of the previous application in accordance with the provisions of paragraph 4 of said Article 17, and this document is not at the disposal of the Spanish Patent and Trademark Office, this circumstance shall be notified to the applicant so that he may provide said documentation within a period of two months as of its notification, with the indication that if he does not do so, it shall not be admitted for processing and the patent application shall be considered withdrawn.

2. If the defects are corrected in term, the date of presentation will be maintained as that in which all the requirements of article 17.1 of the present Regulation had been fulfilled and the applicant will be communicated this way. If the defects are not corrected in due form and within the prescribed period, the application shall not be admitted as a patent application and shall be considered withdrawn. The resolution of withdrawal shall be notified to the applicant and published in the "Official Bulletin of Industrial Property".

Omitted parts of the description or omitted drawings.

1. In the event that, when examining whether the patent application meets the necessary requirements to obtain a filing date, the Spanish Patent and Trademark Office detects that a part of the description appears to be missing or drawings to which the description refers appear to be missing, this defect will be communicated to the applicant so that, within a period of two months from its notification, he may complete the application or indicate whether he refers to an earlier application whose priority is claimed.

2. If the applicant completes the application within two months from the date of filing of the patent application or from the notification referred to in the preceding paragraph, the date on which the omitted part of the description or the omitted drawings is received, or the date on which all the requirements prescribed in Article 24 of the Law and Article 17 of these Regulations are fulfilled, shall be granted as the filing date, whichever date is later. This date shall be communicated to the applicant.

The date of filing shall be maintained as the date on which all the requirements prescribed in Article 24 of the Law and Article 17 of these Regulations are fulfilled, in the event that the applicant withdraws, within a period of one month from its submission, the omitted part of the description or the omitted drawing.

3. If the patent application claims the priority of an earlier application, the applicant may indicate that he refers to that earlier application to incorporate the omitted part of the description or the omitted drawings. In this case, the omitted part of the description or the omitted drawings must be fully contained in the earlier application. The date on which all the requirements prescribed in Article 24 of the Law and Article 17 of these Regulations were fulfilled shall be maintained as the filing date, if the applicant files within the period prescribed in paragraph 2:

- a) A request that the contents of the previous application be incorporated by reference in the application.
- b) A certified copy of the previous application and, if applicable, a translation into Spanish, unless such documents are available to the Office.
- c) An indication of where the omitted part of the description or the omitted drawing appears in the earlier application or in the translation, if any.

4. In case the applicant does not reply to the communication of paragraph 1, the filing date shall be the date on which all the requirements prescribed in Article 24 of the Law and

Article 17 of these Regulations have been complied with. However, the omitted part of the description and the omitted drawings shall not be taken into account.

Article 21. Joint notification of defects and time limit for correction.

The defects provided for in Articles 18, 19 and 20 of these Regulations may be communicated to the applicant jointly by means of a single notification, granting a common period of two months from the date of notification to correct them, with the indication that if the applicant fails to do so, the application shall be deemed to have been withdrawn.

Patents of interest for national defense.

1. In the admission to process the application, the Spanish Patent and Trademark Office will examine if the object of the invention could be of interest for the national defense. In the affirmative case, in application of articles 33 and 34 of the Law, the Spanish Patent and Trademark Office will make the patent application available to the Ministry of Defense once it has been admitted for processing.

2. If the Ministry of Defense issues a reasoned report considering that the invention is of interest to national defense, the secret processing of the patent application shall apply in accordance with the provisions of Articles 47 and following of these Regulations.

Article 23. Ex officio review.

1. Once the filing date has been granted and the corresponding fees have been paid, the Spanish Patent and Trademark Office will examine the application for publication purposes:

- a) If the request complies with the provisions of Article 2 of these Regulations.
- b) In the event that the description is submitted in a language other than Spanish, if the applicant has provided the corresponding translation referred to in Article 17.2 of these Regulations.
- c) If the application contains one or more claims within the meaning of Article 23.1.c) of the Law or a reference to an earlier filed application under Article 17.3 of these Regulations, indicating that it also replaces the claims.
- d) In the event that the applicant has requested incorporation by reference pursuant to Articles 24(1)(c) of the Law and 17(3) of these Regulations, if the applicant has provided the translation referred to in Article 17(4) of these Regulations.
- e) If the description, the claims, the drawings and the abstract comply with the formalities provided for in the Annex to these Regulations, only insofar as their compliance is necessary for the purposes of uniform publication.
- f) If the application claims the priority of an earlier application, national or foreign, or the harmless disclosure derived from the exhibition at an official or officially recognized exhibition, it shall be examined whether they meet the requirements of Articles 13 to 15 of these Regulations.
- g) In the case of divisional patent applications, change of modality, conversion of a European patent application or entry into the national phase of a PCT international application, if the mentions to the number and date of application of the original patent have been made.
- h) If it meets the requirements regarding representation as provided in Article 175 of the Law and Articles 107 and 108 of these Regulations.
- i) If the subject matter of the application is not manifestly and totally excluded from patentability by application of articles 4.4 and 5 of the Law.

2. The presence of formal defects in the documentation will not suspend the completion of the report on the state of the art provided that they are not of such a nature as to prevent its completion or distort the object of the search in such a way as to render its result unusable.

Article 24. Notification of defects.

1. If the patent application presents any of the defects mentioned in the previous article, the Spanish Patent and Trademark Office will notify to the applicant all the objections so that this, in the term of two months starting from the publication of defects in the "Official Bulletin of the Industrial Property", corrects the defects or makes the allegations that it considers opportune in defense of the patent application. To the extent necessary to correct the notified defects, the applicant may amend the description, claims and drawings or biological sequences, under the terms provided for in Article 48 of the Law.

2. The reply to the notification of defects will imply the payment of the corresponding fee.

Article 25. Denial of the application.

1. Once the period for the correction of defects or for the filing of allegations provided for in Article 24 of these Regulations has elapsed, the Spanish Patent and Trademark Office shall examine whether the defects have been duly corrected and whether the corresponding fee has been paid. Otherwise, the application shall be rejected. Said decision, which shall be reasoned, shall be notified to the applicant, and a mention of the refusal shall also be published in the "Official Industrial Property Gazette" with the data necessary for the identification of the patent application.

2. In the event that the defects concern the right of priority provided for in Article 13 or the harmless disclosure resulting from the exhibition at an official or officially recognized exhibition provided for in Article 15, both of these Regulations, the applicant shall be notified of the loss of this right.

Section 2.^a Report on the state of the art and written opinion

Content of the report on the state of the art and of the written opinion.

1. The report on the state of the art shall mention the elements of the state of the art available to the Spanish Patent and Trademark Office at the time of establishing the report, which may be taken into consideration to assess the novelty and inventive step of the invention that is the subject of the application, on the basis of the claims, taking due account of the description and, where appropriate, the drawings or biological sequences.

2. Each citation shall be made in relation to the corresponding claims. As far as possible, the specific part of the cited document shall be identified.

3. The report on the state of the art shall distinguish in the mentioned documents between those that have been published before the priority date, between the priority date and the filing date and on or after the filing date. The prior art report shall mention the classification of the patent application, according to the international patent classification.

4. Any document referring to an oral disclosure, to a use or to any other disclosure that was prior to the filing date of the patent application, shall be mentioned in the prior art report, specifying, if any, the date of publication of the document and of the non-written disclosure.

5. The report on the state of the art shall be accompanied by a preliminary and non-binding written opinion as to whether the invention that is the subject of the patent application appears to be new, to involve an inventive step and to be susceptible of industrial application, as well as whether the application meets the conditions of the Law and these Regulations.

6. Without prejudice to the provisions of Article 36.5 of the Law, the prior art report, accompanied by the written opinion, shall be made in the event that the international search report has not been carried out for the entire international application or that the national application includes elements on which no search was carried out in the international phase.

Lack of clarity or consistency.

1. If the Spanish Patent and Trademark Office appreciates a lack of clarity or coherence in the description or in the claims, or defects that totally or partially prevent a meaningful search, the applicant will be notified, so that within a period of two months from the publication of the defects in the "Official Bulletin of Industrial Property" he may make the allegations he deems appropriate, correct the defects, modifying, where appropriate, the description or the claims and, where appropriate, the drawings, under the terms provided for in Article 48 of the Law, or specify the object of the search.

2. Once this period has elapsed, if the applicant does not reply, or the defects have not been remedied and there is still a lack of clarity or consistency or precision in the object of the search, the Spanish Patent and Trademark Office will carry out, as far as possible, a partial search and this will be reflected in the report on the state of the art and the written opinion.

3. If a lack of clarity or coherence of the description or the claims persists that totally prevents a meaningful search, the Spanish Patent and Trademark Office will not proceed to carry out the report on the state of the art nor the written opinion and will reject the patent application, with indication of the reasons, notifying the interested party. The mention of the refusal decision shall be published in the "Official Bulletin of Industrial Property".

Applications comprising a plurality of independent claims.

1. If the Spanish Patent and Trademark Office considers that the claims, as filed, do not comply with the provisions of Article 7.2 of these Regulations, the applicant shall be notified so that, within a period of two months from the publication of the defects in the "Official Industrial Property Gazette", he may submit the allegations he deems appropriate or provide a new set of claims that will serve as the basis for carrying out the search.

2. If, within the prescribed period, the applicant does not provide the new set of claims or if the new set of claims still does not comply with the provisions of Article 7.2 of these Regulations, the search shall be carried out in relation to the first claim of each category.

Lack of unity of invention.

1. If, upon initiating the search, the Spanish Patent and Trademark Office finds that the patent application does not satisfy the requirement of unity of invention provided for in Article 26 of the Law, it shall issue a report on the partial state of the art with respect to those parts of the application that refer to the invention or group of inventions mentioned first in the claims.

Said partial report, accompanied by the written opinion, shall be sent to the applicant so that, within a period of two months from the publication in the "Official Bulletin of the Industrial Property" of the defect of the lack of unity of invention, he may make the corresponding allegations against said objection of lack of unity of invention, divide the application or pay an additional fee per request of report on the state of the art for each additional invention claimed. At the time of payment of the additional fees, the applicant may also make allegations on the objection of lack of unity of invention.

2. Notwithstanding the provisions of the preceding paragraph, for reasons of procedural economy, at the same time that the search is carried out in relation to the main invention, the search for one or more additional inventions may be carried out, if such search would involve little or no additional effort.

3. If, in view of the allegations of the applicant presented within the term prescribed in paragraph 1, the Spanish Patent and Trademark Office finally considers that there is unity of invention, the search for the initially unsearched claims of the patent application shall be carried out and a report on the state of the art and a final written opinion shall be issued for the entire application. If additional fees have been paid, these will be returned to the applicant.

4. If, within the prescribed period, the applicant files one or more divisional applications, the partial report and the written opinion shall be considered final for the invention or group of inventions with respect to those that would have been made for the original invention.

5. If the applicant has paid the additional fees within the prescribed period, the Spanish Patent and Trademark Office will carry out a search on the parts of the application that are related to the inventions or group of inventions for which fees have been paid and will issue the final prior art report and written opinion.

6. If within the prescribed period the applicant does not remedy the defects or does not pay the additional fees or does not divide the application, the Spanish Patent and Trademark Office will consider the partial report accompanied by the written opinion as definitive for the invention or group of inventions in relation to which they have been made. The processing will only continue for the claims in respect of which the report has been made and this will be indicated in the written opinion.

Transfer of the report on the state of the art and of the written opinion.

Once the report on the state of the art and the written opinion have been prepared, the Spanish Patent and Trademark Office will transfer them to the patent applicant. At the same time, the applicant will be given access to the aforementioned documents.

Publication of the application and the report on the state of the art.

1. Without prejudice to the provisions of Article 37.2 of the Law, once eighteen months have elapsed from the filing date of the application or from the priority date claimed, once the ex officio examination has been passed, the Spanish Patent and Trademark Office shall publish, as soon as possible, the mention in the "Official Industrial Property Gazette" that the patent application is made available to the public.

2. At the request of the applicant, the application may be published before the eighteen-month period referred to in Article 37.1 of the Law, provided that the application has passed the ex officio examination.

3. The mention in the "Official Industrial Property Gazette" referred to in paragraph 1 shall include the following indications:

- a) The application and publication number.
- b) The date of submission of the application.
- c) Full details of the priority or priorities claimed.
- d) The international patent classification.
- e) The title of the invention.
- f) Identification of the applicant and his representative, if applicable.
- g) The identification of the inventor or inventors, unless they have renounced to be mentioned as such.
- h) The summary.
- i) The most representative drawing, if applicable.

4. At the same time, a brochure of the patent application shall be published which, in addition to the indications included in paragraph 3, shall contain the description, the claims and, if applicable, the drawings. It shall also mention the "Official Bulletin of Industrial Property" in which the patent application is published. The biological sequences shall be made accessible to the public and shall be so mentioned in the brochure.

5. If at the time of the publication of the patent application the report on the state of the art is available, the Spanish Patent and Trademark Office shall simultaneously publish in the "Official Bulletin of Industrial Property" the mention of the publication of the application and of the availability to the public of both the report and the written opinion. Likewise, the brochure of the patent application referred to in the preceding paragraph shall include the report on the state of the art.

6. If, in application of Article 36.5 of the Law, the report on the state of the art is not made, a mention of the publication of the international search report shall be published in the "Official Bulletin of Industrial Property". As from the said publication in the

The "Official Bulletin of Industrial Property" will start the computation of the period foreseen in the "Official Gazette of Industrial Property".

Article 39.2 of the Law. Where appropriate, a written opinion will be issued regarding the subject matter of the application, which will be forwarded to the applicant and made available to the public.

Article 32. Observations of third parties to the application.

1. Once the announcement of publication of the patent application in the "Official Bulletin of Industrial Property" has been made, any person may make duly reasoned and documented observations on the patentability of the invention that is the subject matter of the application up to the time prior to the completion of the substantive examination.

2. The observations of third parties shall be filed with the Spanish Patent and Trademark Office, shall not interrupt the processing of the application and shall be forwarded to the applicant, who may make allegations if he deems it appropriate.

Section 3.1 Substantive review and disposition

Request for substantive review.

1. The applicant may formulate the request for substantive examination from the time of filing the application until the expiration of a period of three months counted from the date of publication in the "Official Bulletin of Industrial Property" of the mention of the availability to the public of the report on the state of the art. The request for substantive examination shall imply the payment of the corresponding fee.

2. The applicant may submit observations to the report on the state of the art and to the written opinion and, where appropriate, to the observations of third parties, as well as amend the patent application under the terms provided for in Article 48 of the Law, until the end of the term mentioned in the preceding paragraph.

3. Once the prescribed period has elapsed without a request for substantive examination having been filed or without the corresponding fee having been paid, the patent application shall be considered withdrawn. The decision declaring the application withdrawn shall be communicated to the applicant and shall be published in the Official Industrial Property Gazette.

4. In accordance with Article 39.2 of the Law, the request for examination may be revoked at any time during the procedure. In this case, the Spanish Patent and Trademark Office will consider the patent application withdrawn and it will be so published in the "Official Bulletin of Industrial Property". This revocation shall be subject to the same limitations as the withdrawal of the patent application, in accordance with Article 67 of these Regulations. If examination has been initiated, the substantive examination fee shall not be refunded.

Substantive review and resolution.

1. The report on the state of the art has been published and the request for examination has been filed in due time and the corresponding fee has been paid, as well as, if applicable, the pertinent observations and amendments have been submitted, the examination will begin.

2. The Spanish Patent and Trademark Office will consider the report on the state of the art and the written opinion as the first communication to the applicant as to whether the invention meets the formal, technical and patentability requirements foreseen in the Law. This notwithstanding, a complementary search may be carried out in order to discover the existence of documents that have been published or have been made available to the public after the date on which the report on the state of the art was made.

3. Where the examination does not reveal the lack of any requirement that would prevent it, the patent applied for shall be granted in accordance with the provisions of Article 35 of these Regulations. If the applicant has amended his patent application, it shall be verified that such amendments comply with the requirements of Articles 48 of the Law and 64 of these Regulations.

4. The Spanish Patent and Trademark Office will refuse the patent in the event that the applicant has not carried out any act to avoid the objections contained in the first communication. The refusal decision shall be notified, stating the reasons, and a mention of the refusal shall be published in the "Official Industrial Property Gazette".

5. In the other cases if, in view of the answer received and in spite of the allegations or modifications contributed, the Spanish Patent and Trademark Office considers that reasons persist that impede in everything or in part the concession of the patent, these will be communicated to the applicant giving him the opportunity to make observations or to correct his application in the term of two months starting from the publication of the mention of objections in the "Official Bulletin of the Industrial Property". When correcting the application, the applicant will be able to modify, in the terms foreseen in article 48 of the Law, the description, the claims and the drawings or biological sequences, in its case, writing the patent such as it intends to be granted.

6. The Spanish Patent and Trademark Office may repeat the communication of objections by sending new communications of defects, giving new opportunities to the applicant to remedy within a period of two months in each of them, counting from the publication in the "Official Bulletin of Industrial Property", if in spite of his replies, he has not yet managed to completely correct all the defects that prevent the granting of the patent, provided that it is considered that the remaining defects are remediable and that the applicant has manifestly tried to correct them.

7. The new opportunities referred to in the previous paragraph may consist of one or several written formalities or may be concentrated in a single oral hearing when deemed convenient or requested by the applicant. In the event of the absence of the patent applicant, the proceedings shall be deemed to have been concluded and the prosecution shall continue. A brief record of the matters dealt with at the oral hearing shall be drawn up, to which the agreed texts shall be attached. The applicant shall submit the description and the claims, as agreed upon, complying with the formal requirements of these Regulations, within ten working days from the day following the publication of the announcement of the minutes in the "Official Bulletin of Industrial Property".

8. Once the proceedings of the three previous sections have been completed, the Spanish Patent and Trademark Office will make a final decision on the grant or refusal of the patent, taking into account the text provided by the applicant.

9. An appeal may be filed by the patent applicant against the decision rejecting the patent application. The term for the interposition of the appeal will be of one month starting from the date of publication of the refusal in the "Official Bulletin of the Industrial Property". However, this period shall be subject to reinstatement of rights under the conditions and in the cases provided for in Article 53 of the Law.

10. In the appeal procedure, the patent owner may amend the application subject to the provisions of Article 48 of the Law.

11. The resolution of the appeal shall terminate the administrative proceedings.

Article 35. *Granting of the patent.*

1. The grant of the patent and the mention that the file is available to the public shall be published in the "Official Bulletin of Industrial Property".

2. The mention in the "Official Industrial Property Gazette" referred to in paragraph 1 shall include the following indications:

- a) The application and publication number.
 - b) The date of submission of the application.
 - c) Full details of the priority or priorities claimed.
 - d) The date of publication of the application and, if they do not coincide, the date of publication of the prior art report or of the mention of the publication of the international search report.
 - e) Reference to the amendments made to the claims.
 - f) The international patent classification.
 - g) The title of the invention.
 - h) The identification of the owner and his representative, if applicable.
 - i) The identification of the inventor or inventors, unless they have renounced to be mentioned as such.
 - j) The date of grant.
 - k) The summary.
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3. At the same time, a brochure of the patent will be published which, in addition to the mentions included in the previous section, will indicate the "Official Bulletin of the Industrial Property" in which the grant was announced, will contain the description, the claims and, if applicable, the drawings as they have been granted. The biological sequences shall be made accessible to the public and shall be so mentioned in the brochure. The prospectus shall state that the patent is granted without prejudice to third parties and without guarantee by the State as to the validity of the patent and the utility of the subject matter to which it relates.

CHAPTER III

Opposition procedure

Article 36. *Opposition to the concession.*

1. Pursuant to Article 43(1) of the Law, any person may oppose the grant of a patent by filing a notice of opposition within six months following the publication of the grant in the "Official Industrial Property Gazette".

2. The notice of opposition, referred to in Article 43 of the Law, sufficiently reasoned, shall be filed with the Spanish Patent and Trademark Office. Said document must be accompanied by the corresponding allegations, facts and evidence invoked in support thereof. If the evidence provided is not written in Spanish, a translation into Spanish must be provided. The filing of the notice of opposition shall imply the payment of the corresponding fee.

3. The notice of opposition must contain the following information:

- a) The identity of the opponent, in accordance with Article 2.1 (b) and (c) of these Rules.
- b) Where the opponent acts through a representative, the identity of the representative shall be indicated in accordance with Article 2.2 (a) of these Rules.
- c) The number of the patent application against which opposition is filed, as well as the identification of the owner.
- d) The grounds on which such opposition is based in accordance with the provisions of Article 43.1 of the Law, as well as a statement specifying to what extent the opposition raised affects the patent, detailing the claims affected by the opposition.
- e) The signature of the opponent or his representative.

4. The opposition shall not be admitted if it has not been filed within the six-month period provided for in Article 43.1 of the Law.

5. In cases where the notice of opposition does not comply with the provisions of paragraphs 1 and 2 or where the opposition fee has not been paid or payment is insufficient, the opponent shall be notified of the irregularities observed so that he may remedy them within a period of one month from the publication of the defects in the "Official Industrial Property Gazette", stating that if he fails to do so he shall be deemed to have withdrawn the opposition.

6. The decision by which the opposition is admitted, inadmissible or deemed to be withdrawn shall be notified to the opponent, indicating the reasons, and a mention of the decision shall be published in the "Official Bulletin of Industrial Property". Likewise, the decision rejecting the opposition as inadmissible or deemed to have been withdrawn shall be notified to the owner of the patent.

Article 37. *Presentation and processing of the oppositions.*

1. Opposition may be filed against a patent, even if its owner has renounced the patent or it has expired.

2. If the owner renounces the patent or the patent lapses during the prosecution of an opposition, the opponent shall be notified, who may request in writing the continuation of the opposition proceedings within a period of one month from the publication of the notification to the opponent in the "Official Industrial Property Gazette".

3. In any case, once the opposition has been admitted for processing, it may be processed by the Spanish Patent and Trademark Office, even if the opponent dies or withdraws the notice of opposition.

Transfer of oppositions to the patent owner.

1. Once the period for the filing of oppositions has elapsed, the patent owner shall be notified of those oppositions that have been admitted for processing, placing the attached documentation at his disposal so that, within a period of three months from the publication of the notification of the oppositions in the "Official Industrial Property Gazette", he may present arguments and, to the extent necessary to remedy the defects notified, amend the claims, description and drawings or biological sequences, in accordance with the terms provided for in Articles 48 of the Law and 64 of these Regulations.

2. In the event that the patent owner replies to the oppositions, the Spanish Patent and Trademark Office will simultaneously transfer to all the opponents, if there are several, the allegations and proposed amendments presented by the patent owner, granting them a reply in each case for a common period of two months from the publication of the transfer of the reply to the oppositions in the "Official Industrial Property Gazette".

Article 39. Examination of the oppositions and resolution.

1. In order to examine the opposition pleadings, as well as, where appropriate, the response and replies, a Commission shall be set up consisting of three technically qualified experts from the Spanish Patent and Trademark Office, one of whom shall be the President. The Commission shall be completed with a jurist from the same Office if it is considered that the nature of the decision so requires. In the event of a tie vote, the Chairman shall have the casting vote. The members of the Commission shall be appointed by the Director of the Patents and Technological Information Department on the basis of experience and specialization.

2. The Spanish Patent and Trademark Office shall examine the grounds for opposition, as well as the arguments of all the parties, including, where appropriate, the amendments presented by the patent owner. If it considers that no grounds for opposition prevent the maintenance of the patent as granted, it shall reject the opposition or oppositions, as the case may be. The rejection decision shall be notified to the owner and to the opponents, stating the grounds and rejecting the proposal for amendment. The said decision shall be published in the "Official Bulletin of Industrial Property" and shall include a mention relating to the maintenance of the patent as granted.

3. When, in view of the allegations received, including the amendments presented by the patent owner, the Spanish Patent and Trademark Office considers that the patent may continue to be granted in the amended form proposed by the owner, it will decide to totally or partially uphold the oppositions, maintaining the grant of the patent in the amended form.

4. When, in spite of the allegations or amendments made by the owner, the reasons that prevent the maintenance of the patent persist, the owner shall be granted a new period of one month as from the publication of the mention thereof in the "Official Bulletin of Industrial Property", to file new allegations or amendments to the claims, the description and, where appropriate, the drawings or biological sequences, under the terms provided for in Articles 48 of the Law and 64 of these Regulations. New opportunities shall be granted, provided that it is considered that the objections can be remedied and that the owner has manifestly tried to correct them. Before a final decision is taken, a period of 10 days shall be granted to the opponents for them to present the final allegations that they deem pertinent.

5. The procedure of new opportunities to the owner and of final allegations to the opponents referred to in the previous paragraph may consist of one or several written formalities or be concentrated in a single oral hearing, when it is considered convenient, or at the request of the owner of the patent or of any of the opponents. The absence of the opponents shall not prevent the hearing from taking place. In the absence of the patent owner, the proceedings shall be deemed to have been concluded and the prosecution shall continue. The matters dealt with at the oral hearing shall be recorded in brief minutes, to which the texts proposed by the patentee shall be attached. The owner

must submit the description, the claims and, if applicable, the drawings or biological sequences, as they have been proposed, complying with the formal requirements established in these Regulations, within ten working days as from the day following the publication of the announcement of the filing of the record in the "Official Bulletin of Industrial Property".

6. If, finally, the Spanish Patent and Trademark Office decides totally or partially upholding the oppositions, the grant of the patent will be revoked or the grant of the patent will be maintained in a modified form.

7. The reasoned decision revoking the patent shall be notified to the owner and to the opponents, stating the reasons, and a mention of the revocation shall be published in the "Official Bulletin of Industrial Property".

8. The mention in the "Official Bulletin of Industrial Property" referred to in the previous paragraph shall include the following mentions:

- a) The application and publication number.
- b) The date of submission of the application.
- c) Full details of the priority or priorities claimed.
- d) The international patent classification.
- e) The title of the invention.
- f) The identification of the owner and his representative, if applicable.
- g) Identification that the patent has been revoked and the date of the revocation resolution.

9. The reasoned decision by which it is agreed to maintain the patent in an amended form shall be notified to the owner and to the opponents. Likewise, the mention that the patent is maintained in modified form and that it is available to the public shall be published in the "Official Bulletin of Industrial Property".

10. The mention in the "Official Bulletin of Industrial Property" referred to in the previous paragraph shall include the following indications:

- a) The application and publication number.
- b) The date of submission of the application.
- c) Full details of the priority or priorities claimed.
- d) The date of publication of the application and, if they do not coincide, the date of publication of the prior art report or of the mention of the publication of the international search report.
- e) Reference to the amendments made to the claims.
- f) The international patent classification.
- g) The title of the invention.
- h) The identification of the owner and his representative, if applicable.
- i) The identification of the inventor or inventors, unless they have renounced to be mentioned as such.
- j) The date of the decision to maintain the patent in an amended form.
- k) The date of amendment of the claims.
- l) The summary.

11. At the same time, a brochure of the patent shall be published which, in addition to the indications included in the previous paragraph, shall contain the description, the claims and, if applicable, the drawings as they have been modified. The biological sequences shall be made accessible to the public and shall be so mentioned in the brochure.

12. An appeal may only be lodged against the grant of a patent by those who have been party to an opposition proceeding and shall be directed against the act resolving the opposition filed. For these purposes, the opposition may be understood to have been rejected if no express decision has been handed down after the period for resolving it and notifying it has elapsed. The time limit for filing an appeal shall be one month from the date of publication of the decision in the Official Industrial Property Gazette. However, this period shall be subject to reinstatement of rights under the conditions and in the cases provided for in Article 53 of the Law.

13. In the appeal procedure, the patent owner may amend the application subject to the provisions of Article 48 of the Patent Law.

14. The resolution of the appeal shall terminate the administrative proceedings.

Concurrence of judicial proceedings and opposition proceedings.

1. In the event that the Patent Register records the processing of a judicial proceeding on the validity of the patent or infringement against which the opposition has been filed, the Spanish Patent and Trademark Office shall inform the Judge or Court, for the appropriate purposes, of the processing of an opposition proceeding.

2. Once the period for filing oppositions has expired, any third party may request to intervene in the opposition proceedings provided that he files a notice of opposition in the form provided for in Article 36 of these Regulations and proves that the owner has brought an infringement action against him or that after having been requested by the owner of the patent to cease the alleged infringement of the said patent he has brought a denial action, as provided for in Article 121 of the Law. The declaration of intervention shall be filed within a period of three months from the date on which the corresponding legal action is brought. Once the request for intervention of a third party has been admitted, it shall be processed as an opposition.

CHAPTER IV

Revocation or limitation procedure

Article 41. *Request for revocation or limitation.*

1. The owner may request the total revocation or limitation of his patent as granted or limited in a previous opposition or limitation proceeding.

2. The request for revocation or limitation, which shall imply the payment of the corresponding fee, shall be filed in writing before the Spanish Patent and Trademark Office using an official model that shall contain the following data:

a) The identity of the patent owner, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.

(c) if the owner has appointed a representative, the identity of that representative, in accordance with Article 2.2(a) of these Regulations.

c) The application number, publication number, publication date and document type code of the patent for which revocation or limitation is requested.

d) If the owner requests the limitation of the patent, indication that he provides a set of amended claims and, if applicable, an amendment of the description, drawings or biological sequences, under the terms provided for in Articles 48 of the Law and 64 of these Regulations.

e) If there are registered rights in rem, purchase options, liens, licenses or a lawsuit, indication that the consent of the holders of these rights or the plaintiff is provided.

f) Signature of the applicant or his/her representative.

3. The owner may not file a limitation request during the period for filing oppositions provided for in Article 43.1 of the Law, nor while an opposition against the grant of the patent is being processed or a previously requested limitation is being processed.

4. The application must be accompanied by the documents referred to in paragraphs d) and d) and e) above.

e) of paragraph 2 of this article.

Article 42. *Revocation or limitation procedure.*

1. The Spanish Patent and Trademark Office shall examine whether the documentation submitted complies with the requirements established in Articles 105 of the Law and 41 of these Regulations. If the examination carried out reveals any irregularity or defect, the processing shall be suspended, notifying the owner of the objections observed so that, within a period of two months from the publication of the suspension in the "Official Industrial Property Gazette", he may remedy them or present his allegations.

2. Once the period of two months has elapsed, if the defects have been duly corrected, the Spanish Patent and Trademark Office will decide on the application. Otherwise, the request for revocation or limitation will be denied. In both cases the corresponding resolution must be notified, indicating the reasons, and a mention of the revocation, limitation or refusal, if applicable, will be published in the "Official Industrial Property Gazette". The mention of the limitation shall contain the indications referred to in Article 39.8 of these Regulations.

At the same time, a patent brochure shall be published with the indications referred to in Article 39.11 of these Regulations, replacing the references to the grant in a modified form with the limitation.

Article 43. *Petition for limitation while a judicial proceeding is pending.*

1. When a judicial proceeding on the validity of the patent that is registered in the Patent Register is in process, the Spanish Patent and Trademark Office will communicate to the Judge or Court the request for limitation, to the opportune effects. The refusal of authorization shall entitle the patent owner to request the Spanish Patent and Trademark Office to refund the limitation fee.

2. If a judicial proceeding on the validity of the patent is notified and registered in the Patent Register, the Spanish Patent and Trademark Office shall inform the Judge or Court of the existence of a pending limitation proceeding, for the appropriate purposes.

3. Once the limitation procedure has been processed, the Spanish Patent and Trademark Office will inform the Judge or Court of the resolution, providing the patent as amended.

CHAPTER V

Other procedures

Section 1. Divisional applications

Article 44. *Petition for division.*

1. Applications that do not comply with the requirement of unity of invention established in Article 26 of the Law may be divided by the applicant, upon request by the Spanish Patent and Trademark Office, as regulated in Articles 29 and 59 of these Regulations.

2. A patent applicant may request, on his own initiative, the division of his application at any time prior to the completion of the substantive examination.

The applicant for a utility model may request, on his own initiative, the division of his application at any time prior to the decision referred to in Article 62(3) and (4) of these Regulations.

3. When filing the divisional application, the applicant must justify to what extent the object of protection of the divisional application is a part of and not essentially the same as that of the original application.

Formalization and processing of the divisional application.

1. At the time of requesting the division of the patent or utility model application, the applicant shall formalize his divisional application, which shall comply with the requirements prescribed in Chapter I of Title I of these Regulations.

2. For the purposes of maintaining as filing date the date assigned to the initial application, the Spanish Patent and Trademark Office will verify whether the subject matter of the divisional application is included in the initial application.

3. In the event that the division of a patent application is requested, the application fee and the fee for the report on the state of the art shall be paid within a period of one month from the filing of the divisional application. If, in relation to the initial application, additional fees referred to in Article 29 of these Regulations have been paid, the

The applicant shall not have to pay, in respect of the divisional application, the fee for requesting the report on the state of the art, to the extent that the subject matter of the divisional application has already been the object of the search. In this case, a written opinion shall be issued with respect to the subject matter of the divisional application, which shall be communicated to the applicant and made available to the public. Likewise, a mention of the publication of the report on the state of the art made with respect to the initial application shall be published in the "Official Bulletin of Industrial Property". As from said publication in the "Official Bulletin of Industrial Property" the period provided for in Article 39.2 of the Law for requesting the substantive examination shall begin to run.

4. In the event that the fee for the report on the state of the art has not been paid or has not been paid in full or if, in spite of having paid the additional fees referred to in Article 29 of these Regulations, it appears that the object or part of the object of the divisional application has not been the object of the search, the applicant shall be notified of the need to pay the fee or complete payment within a period of one month from the publication of the defect in the "Official Industrial Property Gazette", the applicant shall be notified of the need to pay the fee or complete the payment within a period of one month from the publication of the defect in the "Official Bulletin of Industrial Property", with the indication that if this is not done the divisional application shall be considered withdrawn. The resolution of withdrawal shall be notified to the applicant and shall be published in the "Official Bulletin of Industrial Property".

5. The description and drawings, both in the initial patent or utility model application, as well as in any divisional application, should, in principle, only refer to the elements that are intended to be protected in said application. However, when it is necessary to describe in an application the elements for which protection has been sought in another application, reference should be made to this other application.

Section 2.^a Change of modality

Article 46. Change of modality.

1. The applicant for a patent may request, at any time prior to the completion of the substantive examination, that his patent application be converted into an application for the protection of the subject matter of his invention under another form of Industrial Property.

The applicant for a utility model may request, at any time prior to the decision referred to in Article 62(3) and (4) of these Regulations, that his utility model application be converted into an application for the protection of the subject matter of his invention under another form of industrial property.

The request for a change of modality will imply the payment of the corresponding fee.

2. The Spanish Patent and Trademark Office, as a result of the ex officio examination under Article 35 of the Law or the substantive examination under Article 40 of the Law or the ex officio examination under Article 142 of the Law, may propose to the applicant the change of type of the application, notifying him so that, within the periods provided for in Articles 24, 34.5 and 59.3, respectively of these Regulations, he may accept or reject the proposal, it being understood that he rejects it if within the aforementioned period he does not expressly request the change of type. If the proposal is rejected, the processing of the file shall continue in the modality originally requested.

3. When the applicant requests the change of modality, the Spanish Patent and Trademark Office will agree to the change and will communicate the agreement to the interested party with indication of the documentation that must be presented, indicating to him that he has a period of two months from the publication of the announcement of the agreement of change of modality in the "Official Bulletin of the Industrial Property". If the lack of payment of the fee or insufficient payment is detected, the applicant shall also be notified to make or complete the payment within the said period. Failure to submit the new documentation or to pay the fee within the period indicated shall result in the application for a change of type being considered withdrawn, the application corresponding to the new type shall be cancelled and the processing of the original application shall continue.

4. If the applicant provides the indicated documentation within the prescribed period or corrects the payment of the fee, the Spanish Patent and Trademark Office will process it, maintaining, where appropriate, the filing date of the original application.

Section 3. Secret prosecution of patents of interest to national defense

Article 47. Patents of interest for national defense.

1. The content of all patent applications shall be kept secret until one month has elapsed from the date of filing. Before the end of this period, the Spanish Patent and Trademark Office will extend this period, according to the provisions of article 111.1 of the Law, up to four months if it considers that the subject invention may be of interest for national defense.

2. The Spanish Patent and Trademark Office will notify the applicant of the extension and will send a copy of the patent application to the Ministry of Defense for a decision on whether the subject matter of the patent application is of national defense interest.

3. In case the Ministry of Defense considers that the invention is of interest to the national defense, it will request to the Spanish Patent and Trademark Office so that, before the end of the term of four months, it decrees the secret processing of the same one. The agreement by which the secret processing of the patent application is decreed will be notified to the applicant, giving transfer of the same to the Ministry of Defense.

Applications claiming the priority of a foreign application declared secret.

1. If a patent application filed with the Spanish Patent and Trademark Office claims the priority of a patent application declared secret by a country belonging to the North Atlantic Treaty Organization (NATO) or with which Spain has signed an international defense agreement, it shall be granted at least the same level of secrecy as that granted by the country of origin.

2. In accordance with Article III of the NATO Agreement for the Mutual Safeguarding of the Secrecy of Defense-Related Inventions for which Patent Applications have been filed (done at Paris on September 21, 1960), the secrecy of the invention will be safeguarded if the applicant waives any claim for indemnification for damages or losses due exclusively to the imposition of secrecy on the invention by the country of origin. In case the waiver of indemnification is not submitted, the Spanish Patent and Trademark Office will reject the patent application and will return the submitted documents to the applicant.

Patent applications abroad claiming the priority of a national application declared secret.

1. The applicant may not file applications for protection abroad claiming the priority of a patent application filed with the Spanish Patent and Trademark Office before the expiration of a period of one month from the filing date, unless expressly authorized by the Spanish Patent and Trademark Office.

2. The Spanish Patent and Trademark Office may not grant this authorization for those patent applications that have been made available to the Ministry of Defense by virtue of the provisions of Article 111.1 of the Law or that are subject to a secrecy regime, unless expressly authorized by the Ministry of Defense.

First patent application abroad for inventions in Spain.

1. In the case of inventions made in Spain, the interested party may not file a patent application as a first application abroad, unless expressly authorized by the Spanish Patent and Trademark Office. The request for authorization must be filed by the interested party with the Spanish Patent and Trademark Office.

2. In order to assess whether the invention is of interest to the national defense, the interested party must provide, under conditions of secrecy, a copy of the patent application as he intends to file it abroad, together with the description, claims and drawings and, if applicable, a translation into Spanish of said documentation.

3. The Spanish Patent and Trademark Office will authorize, within a maximum term of one month, the filing of a first application abroad when it considers that the invention

is not of national defense interest and its presentation abroad does not contravene the provisions of the International Defense Agreements signed by Spain.

4. However, if the Spanish Patent and Trademark Office considers that the invention could be of interest to the national defense, it will deny, in the same term of one month of the previous paragraph, the authorization to present a first application abroad and it will notify it to the interested party. In this case, the authorization will only be granted if the interested party provides express authorization from the Ministry of Defense.

Article 51. *Processing of patent applications subject to secrecy.*

1. Chapters I, II and III of this Title I shall apply to patent applications declared secret, except as regards publication and disclosure. Notifications shall be made directly to the applicant or his representative.

2. Proceedings relating to patent applications processed under the secrecy regime shall be recorded in the Secret Patent Register, which shall only be accessible to authorized personnel in accordance with current regulations on the protection of classified information of the Ministry of Energy, Tourism and the Digital Agenda.

3. Once the secret has been lifted, the Spanish Patent and Trademark Office shall continue with the corresponding formalities provided for in Title I of these Regulations. The annotations made in the Register of Secret Patents shall be transferred to the Register of Patents referred to in Article 79 of the Law.

In the event that the lifting of secrecy has taken place once the patent has been granted, the grant shall be published in the "Official Industrial Property Gazette" and the corresponding prospectus shall be issued, as provided for in Article 35 of these Regulations. As from this publication, the period for the filing of oppositions as provided for in Article 43 of the Law shall commence.

Article 52. *Lifting of secrecy.*

1. Patent applications or patents subject to a secrecy regime declared by a country belonging to the North Atlantic Treaty Organization or with which Spain has signed an international agreement on defense matters, shall maintain said regime until the Spanish Patent and Trademark Office receives notification of the lifting of the secrecy.

2. Both the patent applications that are being processed under secret regime and those patent applications that have been denied under this form of processing, will maintain this secret regime until the Ministry of Defense agrees to lift the secrecy.

3. The secret patents whose concession had taken place during its processing under the secret regime will be maintained in that same regime from the date of concession, for years renewable automatically, until the Ministry of Defense communicates the lifting of the secret. The Spanish Patent and Trademark Office will then notify the patent holder.

Article 53. *Regime of patent applications or patents subject to secrecy.*

1. Patent applications or patents subject to a secrecy regime may not be withdrawn, renounced, revoked or limited without the express authorization of the authority that declared the secrecy.

2. Secret patents shall not be subject to the payment of annuities. Once the secret has been lifted, as provided for in Article 52 of these Regulations, the owner of the patents shall pay the annuities accrued as from the publication of the grant in the "Official Industrial Property Gazette".

TITLE II

Supplementary protection certificates for medicinal products or their extension, and phytosanitary products.

Article 54. *Submission of the application.*

1. The application for a supplementary protection certificate or its extension shall be submitted on the official form and shall contain the following information:

a) When the request refers to medicines:

i. The provisions of Article 8 of Regulation (EC) No. 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (hereinafter, Regulation (EC) No. 469/2009).

ii. Information that the product is protected by the basic patent designated by its owner for the purposes of the procedure for obtaining the certificate.

b) When the application refers to phytosanitary products:

i. The provisions of Article 8 of Regulation (EC) No. 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (hereinafter, Regulation (EC) No. 1610/96).

ii. Information that the product is protected by the basic patent designated by its owner for the purposes of the procedure for obtaining the certificate.

c) When the application concerns an extension of a supplementary protection certificate for a medicinal product:

i. As established in Article 8, paragraph d) of Regulation (EC) No. 469/2009.

ii. Responsible declaration on the content of the documents provided, indicating the Member States of the European Union to which they correspond.

d) The signature of the applicant or his/her representative.

2. The filing of the application for a supplementary protection certificate or its extension shall imply the payment of the corresponding fee.

Examination of formalities and publication of the application.

1. The Spanish Patent and Trademark Office will check whether the fee for the application for a supplementary protection certificate or its extension has been paid and whether the necessary data for publication provided for in Article 9 of Regulation (EC) No. 1610/96 or Article 9 of Regulation (EC) No. 469/2009 are met. In the event that any defect is detected, the applicant will be notified, granting him a period of ten days from the publication of the defect in the "Official Bulletin of Industrial Property" to improve the application, with the indication that if he does not do so, the application will be rejected.

2. Once the examination has been passed, within a period of three months the Spanish Patent and Trademark Office shall publish in the "Official Industrial Property Gazette" the application for a supplementary protection certificate or extension of protection in accordance with the provisions of Article 9 of Regulation (EC) No. 469/2009 and Article 9 of Regulation (EC) No. 1610/96.

Article 56. *Examination of the application.*

1. Once the application has been published, the Spanish Patent and Trademark Office will check whether the application for a supplementary protection certificate or its extension and the product to which it refers meet the requirements established in Regulation (EC) No. 469/2009 and Regulation (EC) No. 1610/96. It shall not be checked *ex officio* whether the marketing authorization is the first authorization as a medicinal product or plant protection product in the European Union.

2. If irregularities are detected in the documentation or if the application or the subject matter thereof do not meet the conditions respectively established in Regulation (EC) No. 469/2009 or Regulation (EC) No. 1610/96, the applicant shall be notified of the defects so that he may remedy them or present his arguments within a period of two months as from their publication in the "Official Industrial Property Gazette", with the indication that if he does not remedy them the application shall be rejected.

3. Where the defects are not remedied or the objections identified in the notification are deemed to persist, the application for a supplementary protection certificate or the application for an extension of protection shall be rejected, stating the reasons, and the decision shall be published in the "Official Bulletin of Industrial Property".

Granting of the supplementary protection certificate or extension.

If the application for the supplementary protection certificate or the extension and the product to which it refers meet the conditions established in the Community regulations, the Spanish Patent and Trademark Office shall grant the certificate or the extension and shall publish in the "Official Industrial Property Gazette" the decision to grant the certificate or the extension in accordance with Article 11 of Regulation (EC) No. 469/2009 and Article 11 of Regulation (EC) No. 1610/96.

TITLE III

Utility models

CHAPTER I

Granting procedure

Article 58. *Utility model application.*

1. In order to obtain a utility model, an application must be filed containing the documentation referred to in Article 141.1 of the Law, as developed in these Regulations.

2. For the purpose of obtaining a filing date, the description may be drafted in any language, and a translation into Spanish must be filed within two months from the filing date of the utility model application or until the end of the period provided for in Article 59(3) of these Regulations, whichever period expires later.

Assignment of filing date and ex officio examination.

1. The procedure for obtaining a filing date shall be as regulated in Articles 17 to 21 of these Regulations.

2. Once the utility model application has been granted a filing date and the corresponding fees have been paid, the Spanish Patent and Trademark Office will examine whether it meets the requirements established for patent applications in Article 23 of the Regulations, except for the summary provided for in paragraph e) and paragraph i). It shall also verify whether its subject matter is susceptible of protection as a utility model.

3. If, as a result of the ex officio examination, it is appreciated that the application presents defects or that its object is not susceptible of protection as a utility model, but by means of another modality of Industrial Property, the Spanish Patent and Trademark Office will declare the file in suspense and will grant the applicant a term of two months to correct, as the case may be, the defects indicated or to formulate the pertinent allegations. To the extent necessary to correct the defects notified, the applicant may amend the description, claims and drawings, under the terms provided for in Article 48 of the Law, divide the application or request a change of modality.

4. Once the period for the correction of defects or for the filing of allegations has elapsed, the Spanish Patent and Trademark Office will examine whether the defects have been duly corrected and the corresponding fee has been paid. If this is not the case,

shall reject the application. Likewise, the utility model application shall be rejected when, in spite of the applicant's allegations, it is considered that the object of the application is not susceptible of protection by means of a utility model and the applicant has not expressly requested the change of modality.

The refusal decision shall be notified to the applicant, stating the reasons, and a mention of the refusal shall be published in the "Official Industrial Property Gazette" with the data necessary for the identification of the utility model application.

In the event that the defects concern the right of priority provided for in Article 13 or the harmless disclosure resulting from the exhibition at an official or officially recognized exhibition provided for in Article 15, both of these Regulations, the applicant shall be notified of the loss of this right.

If, despite the applicant's allegations, the Spanish Patent and Trademark Office still considers that the invention that is the subject matter of the utility model application suffers from a lack of unity of invention, it shall grant a period of one month in which to divide the application and proceed in accordance with the provisions of Article 45 of these Regulations.

5. When the applicant has requested the change of type and paid the corresponding fee, the Spanish Patent and Trademark Office will agree to the change and will communicate the agreement to the interested party with an indication of the documentation that must be presented, granting him for this purpose a period of two months as from the publication in the "Official Bulletin of Industrial Property" of the agreement of the change of type. In the absence of presentation of the new documentation in the indicated term, the application for change of modality will be considered abandoned and the applicant will be so notified; likewise, the application corresponding to the new modality will be annulled. In addition, the utility model application shall be rejected in accordance with the provisions of the previous section. The resolution of withdrawal shall be notified, indicating the reasons, and shall be published in the "Official Bulletin of Industrial Property".

If the applicant provides the required documentation within the period indicated, the Spanish Patent and Trademark Office will process it, maintaining, if applicable, the filing date of the original application.

Article 60. *Publication of the application.*

1. If the ex officio examination does not reveal any defects that would prevent the grant or when such defects have been duly remedied, the Spanish Patent and Trademark Office will notify the interested party of the decision in favor of continuing the procedure and will proceed to make the utility model application available to the public, making the corresponding mention in the "Official Industrial Property Gazette".

The indications to be included in the mention in the "Official Bulletin of Industrial Property" shall be those referred to in Article 31.3 of these Regulations, including, in addition, the claims of the utility model applied for and, if applicable, a reproduction of the drawings.

2. At the same time, a brochure of the utility model application shall be published, which shall contain the information indicated in Article 31.4 of these Regulations, except for the summary.

Article 61. *Oppositions.*

1. The notice of opposition, sufficiently reasoned, must be addressed to the Spanish Patent and Trademark Office and must be filed within two months from the publication of the application in the "Official Industrial Property Gazette". The notice of opposition must be accompanied by the corresponding allegations, including the facts and evidence invoked in support thereof. If the evidence provided is not written in Spanish, a translation into Spanish must be provided. The filing of the notice of opposition shall imply the payment of the corresponding fee.

2. The notice of opposition must contain the following information:

a) The identity of the opponent, in accordance with Article 2.1 (b) of these Rules.

b) If the opponent has appointed a representative, the identity of the representative, in accordance with Article 2.2(a) of these Rules.

c) The number of the utility model application against which the opposition is filed, as well as the identification of the applicant.

d) The grounds on which such opposition is based in accordance with the provisions of Article 144.1 of the Law, as well as a statement specifying to what extent the opposition raised affects the utility model applied for, detailing the claims affected by the opposition.

3. Once the opposition has been filed within the deadline, if an extension of two additional months is requested in accordance with Article 144.2 of the Law, it must be indicated on which points it is intended to complete the allegations or provide additional evidentiary documentation.

4. The opposition will not be admitted:

a) When the notice of opposition is not filed within the time limit provided for in paragraph 1.

b) The opposition fee has not been paid.

c) The notice of opposition does not make it possible to identify unequivocally the application against which the opposition is filed, the identity of the opponent or the grounds and evidence on which it is based.

d) The power of attorney would not have been submitted.

In the case provided for in paragraphs b), c) and d), the opponent shall be given the opportunity to remedy the defects or present allegations within a period of ten days following publication in the "Official Industrial Property Gazette", stating that if he fails to do so, the opposition shall be rejected as inadmissible.

If the notice of opposition does not comply with the other provisions of this Article, the opponent shall be notified of the irregularities observed so that he may remedy them within a period of one month following publication in the "Official Industrial Property Gazette", stating that if he fails to do so he shall be deemed to have withdrawn the opposition.

5. The decision rejecting or dismissing the opposition shall be notified both to the opponent and to the applicant of the utility model, stating the reasons, and a mention of the decision shall be published in the "Official Bulletin of Industrial Property".

6. The Spanish Patent and Trademark Office shall transfer to the applicant of the utility model those oppositions admitted together with the attached documentation so that, within a period of two months from the publication in the "Official Bulletin of Industrial Property" of the transfer of the opposition, if he considers it appropriate, he may present allegations, modify the claims, description and drawings, under the terms provided for in Article 48 of the Law, or request the continuation of the processing. If the applicant does not reply within the time limit, the processing shall continue.

7. In the event that the applicant of the utility model replies to the oppositions, the Spanish Patent and Trademark Office will simultaneously transfer to all the opponents, if there are several, the allegations and proposed amendments presented by the applicant, granting them a reply in each case for a common period of ten days from the publication of the transfer of the reply to the oppositions in the "Official Bulletin of Industrial Property".

8. The opponent may withdraw the notice of opposition until the time limit established in the preceding paragraph has elapsed.

Article 62. Examination of the competitive examinations.

1. In order to examine the opposition submissions, as well as, as the case may be, the response and replies, a Commission shall be set up consisting of three technically qualified experts from the Spanish Patent and Trademark Office, one of whom shall be the President. The Commission shall be completed with a jurist if it is considered that the nature of the decision so requires. In the event of a tie vote, the Chairman shall have the casting vote.

2. When the Spanish Patent and Trademark Office considers that, despite the applicant's amendments or arguments, there are still reasons that prevent the utility model from being granted, it shall grant the applicant a period of one month from the date on which the

publication of the objection to the grant in the "Official Bulletin of the Industrial Property" in order to correct the defect or to present new allegations. To the extent necessary to remedy the defects, the applicant may amend the description, the claims and the drawings, as the case may be, under the terms provided for in Articles 48 of the Law and 64 of these Regulations.

3. Finally, the Spanish Patent and Trademark Office will decide to uphold all or part of the oppositions filed, granting the application, as the case may be, in an amended form or rejecting the utility model application in its entirety when any of the grounds for opposition indicated in Article 144.1 of the Law are met.

4. In the event that no oppositions have been filed or that all of them are rejected, the Spanish Patent and Trademark Office will grant the utility model.

5. The refusal or grant of the utility model application shall be notified to the owner and to the opponents, stating the reasons, and a mention of the decision shall be published in the "Official Bulletin of Industrial Property".

6. The publication of the denial decision shall contain the following data:

- a) Application and publication number.
- b) The date of submission of the application.
- c) Full details of the priority or priorities claimed.
- d) The international patent classification.
- e) The title of the invention.
- f) Identification of the applicant and his representative, if applicable.
- g) The identification of the inventor or inventors, unless they have renounced to be mentioned as such.
- h) Date of denial.

7. The publication of the award resolution will mention:

- a) Application and publication number.
- b) The date of submission of the application.
- c) Full details of the priority or priorities claimed.
- d) The international patent classification.
- e) The title of the invention.
- f) Identification of the applicant and his representative, if applicable.
- g) The identification of the inventor or inventors, unless they have renounced to be mentioned as such.
- h) The date of publication of the application
- i) It shall include, if applicable, the modifications introduced in its claims.
- j) The grant date.
- k) Making the documentation of the utility model available to the public.

8. The resolution of grant or refusal of the utility model may be appealed in appeal within a period of one month from the publication of the resolution in the "Official Bulletin of Industrial Property". However, this term is subject to the reestablishment of rights under the conditions and cases provided for in Article 53 of the Law.

9. The appeal against the grant of the utility model may only refer to those issues that can be resolved by the Spanish Patent and Trademark Office during the registration procedure.

10. The appeal based on grounds for refusal of the utility model not examined ex officio by the Spanish Patent and Trademark Office may only be filed by those who have been party to an opposition proceeding against the grant of the utility model based on such grounds, and shall be directed against the act resolving the opposition raised. For these purposes, the opposition may be understood to have been rejected if, once the period for resolving and notifying it has elapsed, no express decision has been handed down.

11. In the appeal procedure, the patent owner may amend the application subject to the provisions of Article 48 of the Patent Law. If, as a consequence of an appeal, the utility model is modified, this circumstance shall be published in the

corresponding announcement in the "Official Bulletin of Industrial Property", including the claims of the registered model and, if applicable, a reproduction of the drawings.

12. The resolution of the appeal shall terminate the administrative proceedings.

CHAPTER II

Exercise of shares

Request for a report on the state of the art for the exercise of legal actions.

1. The request for a report on the state of the art for the purposes of the provisions of article 148.3 of the Law, will imply the payment of the corresponding fee. If the Spanish Patent and Trademark Office detects that the fee has not been paid or has been paid insufficiently, it will grant the petitioner a period of ten days for its payment, indicating that if this is not done, the petition will be rejected.

2. Once the request for a report has been accepted, the Spanish Patent and Trademark Office shall prepare the report on the state of the art, which shall be accompanied by the preliminary and non-binding written opinion, and shall forward the same to the petitioner.

3. The request, as well as the report on the state of the art and the written opinion, shall be included in the utility model file.

4. In view of the report, the applicant of the utility model may file allegations and, if necessary, amend the claims, in the proceedings allowed in Chapter I of Title IV of these Regulations.

In view of the report, the owner may request the limitation of the utility model under the conditions and with the requirements provided for in article 105 and following of the Law and in article 41 and following of these Regulations.

TITLE IV

Common procedural provisions

CHAPTER I

Modification and correction of errors

Amendments to the patent application or granted patent.

1. The applicant or owner of the patent may only amend the claims in the steps of the proceedings provided for in the Law and in these Regulations. When amending the claims, the applicant or owner may, in order to maintain consistency, amend the description and, where appropriate, the drawings or biological sequences, under the terms provided for in Article 48 of the Law.

2. When the applicant or owner makes an amendment, he must submit the complete set of claims in substitution of the previously submitted claims and, if applicable, the description, drawings or biological sequences.

3. The amendment shall be accompanied by a written statement in which the applicant identifies the differences between the previous claims and the amended claims. In addition, he shall indicate the reasons for the amendment and the scope of the amendment.

4. The amended claims may not refer to subject matter that has not been the object of the search because it is not included, forming a single general inventive concept, in the invention or group of inventions originally claimed. Neither may they refer to subject matter that has not been the object of search by virtue of Articles 27 or 28 of these Regulations.

5. The applicant may amend the claims in accordance with the provisions of the first paragraph of this article, without the need to have the consent of those who have rights registered on his application in the Patent Register.

6. The designation of the inventor or inventors may not be modified without the consent of the other inventors designated in the patent application, as well as of the applicant or patent holder.

Rectification of errors in documents sent to the Spanish Patent and Trademark Office.

1. Defects of expression or transcription and errors contained in any document sent to the Spanish Patent and Trademark Office may be rectified at the request of the applicant or owner.

2. For the purposes of the provisions of the previous paragraph, if the request for rectification concerns the description, the claims, the drawings or the biological sequences, the rectification must be evident in such a way that no other text than the rectified text could have been proposed by the applicant. In this case, the Spanish Patent and Trademark Office will only take into consideration the content of the description, claims, drawings or biological sequences and, when applicable, the correction or amendment provided by the applicant.

3. In the case of an error in any other document of the application, the Spanish Patent and Trademark Office will take into consideration the content of the application itself, as well as any other document included in the file prior to the request for rectification and, when applicable, the correction or corrected document provided by the applicant.

Rectification of errors in decisions issued by the Spanish Patent and Trademark Office.

In accordance with the provisions of Article 109.2 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations, at the request of a party or on its own initiative, the Spanish Patent and Trademark Office may rectify, at any time, material, factual, or arithmetical errors existing in its resolutions or communications, provided that such rectification does not affect or alter the meaning of the act.

Withdrawal of the application.

1. The patent application may be withdrawn by the applicant at any time before the patent is granted. The request for withdrawal must be filed with the Spanish Patent and Trademark Office and must include:

- a) An indication that withdrawal of the patent application is requested.
- b) The identity of the applicant, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.
- c) In the event that a representative has been appointed, the identity of the representative, in accordance with the provisions of article 2.2 (a) of these Rules.
- d) The application number of the patent whose withdrawal is requested.
- e) Signature of the owner of the patent application or his representative.

2. When, in accordance with the provisions of Articles 11.3 and 52.2 of the Law, the consent of the owner of any right registered in the patent application is required for the withdrawal to be accepted, the request shall be accompanied by a declaration signed by the said owner of the right or by his representative, accepting the said withdrawal.

3. The Spanish Patent and Trademark Office shall examine whether the application for withdrawal complies with the requirements and conditions provided for in the Law and these Regulations. In the event that irregularities exist, the processing shall be suspended and the interested party shall be notified thereof so that, within a period of two months, as from the publication of the suspension in the

"If the defects are not corrected within the established term, the request for withdrawal shall be denied. If the defects indicated are not corrected within the established term, the request for withdrawal shall be denied.

4. The Spanish Patent and Trademark Office will communicate to the applicant the resolution of grant or refusal, with indication of the reasons, of the withdrawal and will publish a notice of the resolution in the "Official Bulletin of Industrial Property".

CHAPTER II
Measures regarding deadlines

Article 68.

1. For the computation of the deadlines provided for in the Law and in these Regulations, the provisions of Chapter II of Title II of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations shall apply. This notwithstanding, for the payment of annuities accruing after the publication of the concession, the computation shall be made in calendar months.

2. The presence of defects in the documentation shall interrupt the procedure from the time the applicant is notified of the existence of such defects, by means of the corresponding suspension in the processing, until such defects are corrected or the term for doing so expires, whichever term expires first.

3. The maximum time limits for resolution and notification or publication of all procedures provided for in the Law and in these Regulations shall be those established in the ministerial order on maximum time limits adopted in application of the provisions of the second additional provision of the Law.

4. The expiration of the maximum period for resolving an application for any procedure processed before the Spanish Patent and Trademark Office in application of the Law and these Regulations without an express decision having been notified shall entitle the interested party to understand it to have been rejected for the sole purpose of allowing him to file the appropriate administrative or contentious administrative appeal. The presumptive rejection shall in no case exclude the duty to issue an express resolution, which shall be adopted without any link to the sense of the silence.

Article 69. *Extension of deadlines.*

1. Except as provided for in paragraph 3 of this Article, the Spanish Patent and Trademark Office may extend the time limits established in the Law and these Regulations by two months.

2. The extension of a term must be requested in writing before the expiration of the term for which the extension is requested and the Spanish Patent and Trademark Office must decide on it within said term.

3. Those deadlines that affect interested third parties may not be extended, and in particular:

- a) The extension of an already extended term.
- b) The deadline for requesting the extension or for requesting the reinstatement of rights.
- c) The deadline for payment of annuities.
- d) The time limit for claiming priority, as well as the time limit for correction, addition or reestablishment of the right of priority.
- e) The time limit to file an opposition and to file an administrative appeal.
- f) The time limit for replying to a communication from the Spanish Patent and Trademark Office in an adversarial proceeding.

4. The Spanish Patent and Trademark Office will examine whether the request for extension is admissible and will decide whether to grant or refuse it, stating the reasons. The decision will be communicated to the applicant and a notice of the decision will be published in the "Official Industrial Property Gazette".

Article 70. *Request for reinstatement of rights.*

1. The application for the reinstatement of a right shall be filed with the Spanish Patent and Trademark Office, paying the corresponding fee, and shall contain the following data:

- a) The identity of the applicant or holder of the right whose restoration is requested, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.

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- b) The identity of the representative, if any, in accordance with the provisions of Article 2.2(a) of these Regulations.
 - c) Deadline or unfulfilled procedure.
 - d) If applicable, agreement and date of the extinction of the right and its publication or notification.
 - e) Date of cessation of the impediment.
 - f) Reasons for non-compliance, justification, evidence and allegations in support of the claim.
 - g) Signature of the interested party or his/her representative.

2. With the request for reestablishment of the right, the omitted procedure must be complied with, accompanied by the formalization of the act or the request, writing or documentation that was omitted at the time in said procedure and whose absence determined the loss of the right.

Article 71. Examination and resolution of the application.

1. It shall be examined whether the request for reinstatement of rights has been submitted within the time limit prescribed in Article 53.2 of the Law and whether the unobserved time limit is subject to reinstatement under the provisions of Article 53.1 and 5 of the Law and Article 14.4 of these Regulations. If this is not the case, the request for reinstatement of rights shall be rejected.

2. Once the application has been accepted for processing, the Spanish Patent and Trademark Office shall examine whether the application for reinstatement of rights complies with the requirements provided for in the preceding article and in Article 53 of the Law, and whether the omitted act or procedure has been duly complied with in all its formalities when the application for reinstatement was filed.

3. If any irregularity or defect is observed in the documentation submitted, the applicant shall be notified so that he/she may correct them or present his/her allegations within a period of ten days. The application for reinstatement shall be considered withdrawn if the irregularities or defects are not corrected in due time.

4. When no irregularities or defects are observed in the documentation submitted, or when these have been corrected, it will be examined whether due diligence has been accredited in the circumstances of the case.

5. Once the aforementioned examination has been carried out, a decision will be taken, either upholding or rejecting the reestablishment of rights. In the latter case, before rejecting the reestablishment of rights, the petitioner shall be granted an additional period of ten days to make observations.

6. The mention of the decision to reinstate rights will be published in the "Official Bulletin of Industrial Property".

CHAPTER III

Patent registration and public information

Article 72. Recordable data.

1. The Patent Register referred to in Article 79 of the Law shall be kept in the form of an electronic database and shall be open to public consultation. In it shall be entered, where appropriate, the following mentions referring to both patent applications and granted patents:

- a) The application number.
- b) The date of submission of the application.
- c) The title of the invention.
- d) Classification symbols assigned.
- e) The identity of the applicant or patent owner, in accordance with the provisions of article 2.1.b) of these regulations.
- f) The name of the inventor designated by the applicant or by the patent owner, provided that the inventor has not renounced to be designated as such.
- g) The identity of the agent or representative, unless he/she is an employee of the applicant; in such a case, it shall be sufficient to indicate the identity and position in the company of the

applicant. When there are several representatives, it will be sufficient to register the one mentioned first, followed by the words "and others".

h) The indications relating to the priority claim (date, State and filing number of the previous application).

i) The indications relating to the exposure priority (date, status and display number).

j) In case of division of the patent application, the numbers of the divisional applications.

k) The indication, if applicable, that it is a divisional application and the filing date and number of the corresponding application or registration.

l) The date of publication of the application and, if they do not coincide, the date of publication of the prior art report or of the mention of the publication of the international search report.

m) The indication that it is a patent by transformation of a European patent application and the data related to this application.

n) The indication that this is a national phase entry of a PCT international application and the data relating to this application.

ñ) The date of submission of third party comments.

o) The date of the decision and of the publication of the mention of the decision by which the patent application or the patent has been withdrawn, granted, maintained in modified form, refused, withdrawn or is considered withdrawn, limited or revoked.

p) Data related to the oppositions filed and the filing and resolution of administrative and jurisdictional appeals.

q) Data relating to patent limitations or revocations.

r) Data relating to requests and resolutions on the restoration of rights.

s) Data relating to the signing of an arbitration agreement, to the award rendered and, if applicable, to the appeals filed against it, and to the resolutions adopted in relation thereto.

t) The date of the patent expiration resolution, the cause and the date of production of effects.

u) Payments made.

2. In addition to the entries referred to in the preceding paragraphs, an entry shall be made in the Patent Register, always indicating the date of entry:

a) Changes in the name, address or nationality of the applicant or of the patent owner, or of the State in which he has his domicile, seat or establishment.

b) Changes in the name or business address of the representative, except in the case of the representative referred to in Article 56.3 of the Regulation for the execution of Law 17/2001, of December 7, 2001, on Trademarks, approved by Royal Decree 687/2002, of July 12, 2002.

c) In the event that a new representative is appointed, his or her identity, in accordance with the provisions of Article 2.2.a) of these Rules of Procedure.

d) Requests for assignment of the application or patent, and the date of refusal or granting of the registration of change of ownership.

e) The constitution, modification or assignment of a right in rem and the date of the refusal or granting of the registration. In the case of a chattel mortgage, the date of its registration in the registry of movable property shall be noted.

f) Enforcement measures and insolvency proceedings.

g) Applications for registration, modification or transfer of licenses and the date of refusal or granting of registration.

h) The offer of a license as of right, as well as any application for a license as of right.

i) The submission of the patent to the compulsory licensing regime, as well as any compulsory license application and the date of its refusal or grant.

j) Requests for cancellation of the registrations mentioned in paragraphs e) to i), and the date of registration of their cancellation.

k) Preventive annotations, interpositions of claims, interpositions of claims in the exercise of claims and actions for nullity (direct or by

counterclaims), requests for limitation of the patent as a main or ancillary claim in proceedings concerning the validity of the patent, any other precautionary measures, judgments and other final judicial decisions that put an end to such proceedings, as well as any others provided for in the Patent Law or in other applicable laws.

l) The registry annotations proceeding from mediation agreements formalized or judicially approved.

3. Data relating to utility model applications and granted utility models shall also be recorded in the Patent Register in a manner similar to that indicated in this Chapter.

4. Likewise, data relating to applications for supplementary protection certificates and supplementary protection certificates granted, as well as their extensions, shall be recorded in a manner similar to that indicated in this chapter.

Article 73. *Other registrable data.*

1. Judicial decisions relating to the patent application or patent shall be registered upon communication by the competent Judge or Court or at the request of the interested party.

2. A reasoned decision of the Director of the Spanish Patent and Trademark Office may provide for the entry in the Patent Register of other terms not provided for in the foregoing Article.

Article 74. *Publicity in the registry.*

The Patent Register is public. The publicity will be made effective by means of consultation of the database, obtaining computer listings or certification issued by the competent official. The Spanish Patent and Trademark Office will facilitate, free of charge, public consultation of the database by making it publicly available on telematic communication networks.

Article 75. *Certifications.*

1. The certification shall be the only means of reliably accrediting the content of the registry entries.

2. The certification may be requested by the interested party by means of the presentation, before the Spanish Patent and Trademark Office, of a request, in which the particulars on which the certification is to be based shall be indicated. When a general certification is requested on the registry inscriptions or the situation of patent files, complementary protection certificates or their extensions or utility models, this may consist of the corresponding computer extract from the database, certified by the competent official. The request for certification shall imply the payment of the corresponding fee.

Article 76. *Public consultation of files.*

1. The public inspection of files referred to in Article 55 and the fifth additional provision of the Law shall be carried out on the original documents or copies thereof. When the files are kept by means of electronic storage media, the public inspection shall be carried out on these electronic media. The Spanish Patent and Trademark Office shall establish the manner of carrying out the inspection. The request for inspection of the files shall entail payment of the corresponding fee.

2. For the purposes of the consultation referred to in Article 55.2 of the Law, the interested party, in addition to the provisions of this Article, must provide evidence that the applicant of the file whose consultation is requested has sought to assert against him the rights derived from said file. The Spanish Patent and Trademark Office shall admit the consultation referred to in this paragraph if it considers the evidence provided by the interested party to be sufficient.

3. They will also be excluded from the public consultation:

a) Draft agreements and reports, as well as any documents for the preparation of agreements and reports, which have not been communicated to the parties.

b) Communications between Administration bodies of identical consequence.

c) The documentation concerning the designation of the inventor, if he has waived his personal right to be mentioned in the patent.

d) The parts or documents of the file whose confidentiality has been requested by the interested party prior to the request for consultation, as provided in paragraph 5 of the fifth additional provision of the Law.

4. Upon request, the public consultation will be carried out through the issuance of copies of the documents in the file. The corresponding fee must be paid to obtain such copies.

5. Access to the biological material deposited in accordance with Article 27 of the Law, shall be carried out under the conditions and in the manner provided for in Articles 56 of the Law and 5 and 6 of these Regulations.

TITLE V

Registration of assignments, licenses and other modifications of rights and of offers of full rights licenses

CHAPTER I

Registration of assignments, licenses and other changes in rights

Article 77. *Contents of the request for registration of assignments.*

1. The request to register the assignment of a patent or its application shall be filed by means of a request, on the official model. The filing of the request for registration shall be subject to the payment of the corresponding fee and shall include:

a) The identity of the applicant or holder of the right being transferred, in accordance with the provisions of Article 2.1 (b) of these Regulations.

b) The identity of the new applicant or owner, as provided for in paragraph (b) of Article 2.1 of these Regulations.

c) When the registrant acts through a representative, the identity of the representative, in accordance with the provisions of paragraph a) of Article 2.2 of these Regulations.

d) Indication of the document or act accrediting the assignment.

e) Application number of the patent being transmitted.

f) Signature of the applicant or his/her representative.

2. If the change of ownership results from a contract, the request for registration must be submitted together with one of the following documents:

a) Authentic copy of the contract or simple copy of the same with notarized signatures before a notary public or other competent public authority.

b) Extract from the contract evidenced by notarial or other competent public authority testimony that the extract is in conformity with the original contract.

c) Certificate or document of transfer signed by both the owner and the new owner, consisting of the official models.

3. If the change in ownership is produced by a merger, reorganization or division of a legal entity, by legal imperative, by administrative resolution or by judicial decision, the application for registration must be accompanied by a testimony issued by the public authority issuing the document, or by a copy of the document evidencing the change, authenticated or notarized by a notary or by another competent public authority. However, for the registration of seizures, bankruptcies and other judicial measures, the appropriate order issued for that purpose by the Judge or Court that has issued them or by the competent administrative body shall be sufficient. The request for registration of the assignments foreseen in

This paragraph shall be governed, as applicable, by the provisions of paragraph 1 of this article.

4. The request for registration of assignment may include several patents and patent applications, provided that the current registrant and the new registrant are the same for each of the patents or applications concerned, and the corresponding fee shall be paid for each of them.

Contents of the request for registration of changes of name or address of the interested party or of the representative.

1. When there is no change in the person of the applicant or owner of the patent, but there is a change in his name or address, such change shall be recorded in the Patent Register at the request of the interested party.

2. The request for registration of a change of name or address, which, if applicable, shall be subject to the payment of the corresponding fee, shall include:

a) The number of the application or of the affected patent.

b) The identity of the applicant or owner of the patent, as they appear in the Patent Register.

c) The indication of the new name or address of the applicant or owner of the patent, as it is to be recorded in the Patent Register after the change, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.

d) If a representative has been appointed, the identity of the representative, in accordance with the provisions of article 2.2 (a) of these Rules.

e) The signature of the interested party or his representative.

3. All the applications or patents belonging to the interested party may be grouped in a single application for change of name or address. In this case, the numbers of all the applications or patents affected must be indicated, and the corresponding fee must be paid for each of them.

4. When the Spanish Patent and Trademark Office reasonably doubts the veracity of the change of name or address requested, it may request the interested party to submit evidence of such change.

5. The preceding paragraphs shall apply to changes of name or address of the representative and, in accordance with their nature, also to changes of nationality of the applicant or right holder or of the State in which he has his domicile, seat or establishment.

Contents of the application for registration of licenses.

1. The request for registration of a patent license or its application shall be filed by means of an application on the official form.

2. The application, which shall be subject to payment of the corresponding fee, shall include the mentions contained in Article 77.1 of these Regulations and shall be accompanied by any of the documents referred to in paragraphs 2 and 3 of said Article, referring to the license contract and to the grantor and holder of the license.

3. When the document accrediting the license is one of those provided for in Article 77.2 c) of these Regulations, said documents shall consist of the official models.

4. The application for registration of the license shall indicate whether it is exclusive or not, as well as the possible limitations of the contract as to its duration, mode of exploitation, territorial scope or applications. It shall also indicate whether the licensee may assign it, or grant sublicenses. In the event that the application for registration does not indicate any of the aforementioned points, the license shall be registered in accordance with the legal presumptions established in article 83 of the Law.

5. The request for registration of the license may include several applications or patents provided that the licensor and the licensee are the same for each of the applications or patents concerned, and the corresponding fee shall be paid for each of them.

Contents of the application for registration of other legal transactions.

1. The application for registration of other acts or legal transactions that may be registered in accordance with the provisions of Articles 79.2 and 82.1 of the Law, with the exception of chattel mortgages, which shall be governed by their specific provisions, shall comply with the requirements and conditions set forth in Article 77 of these Regulations, duly adapted to the nature of the act or right to be registered. The request for registration of purchase options or the constitution of rights in rem shall, in addition, be accompanied by a supporting document, in accordance with the provisions of paragraphs a) or b) of Article 77.2 of these Regulations.

2. In the event of registration of insolvency proceedings, seizures or other compulsory execution measures, the request for registration in the Patent Register, presented by the competent authority, will not be subject to the payment of fees. In particular, if there is an insolvency proceeding registered with the Office, any action aimed at extinguishing the affected right will be suspended until the corresponding judicial authorization is received. Once the judicial authorization has been received, a period of two months will be allowed for the regularization of the affected right.

Contents of the request for cancellation or modification of the registration of assignments, changes of name or address, licenses and other legal transactions.

1. The registration of assignments, changes of name or address, licenses and the legal transactions referred to in Article 80 of these Regulations shall be cancelled or modified at the request of one of the parties, by means of an official form.

2. The cancellation or modification request shall contain the following indications:

a) The identity of the applicant, in accordance with the provisions of Article 2.1 (b) of the Regulations.

b) If a representative has been appointed, the identity of the representative, in accordance with the provisions of article 2.2 (a) of these Rules.

c) Number of the file to be cancelled or modified.

d) Number of the application or patent affected by the right to be cancelled or amended, in case of partial cancellation or amendment.

e) Indication of the right whose cancellation or modification is requested.

f) Signature of the applicant or his/her representative.

3. The provisions of paragraphs 2 and 3 of Article 77 of these Regulations shall apply, in accordance with their own nature, to the request for cancellation or modification provided for in this Article.

Procedure for the registration of assignments, changes of name or address, licenses and other legal transactions, as well as their cancellation or modification.

1. The registration of assignments, changes of name or address, licenses and the legal transactions referred to in Article 80 of these Regulations may be requested by any of the parties. The Spanish Patent and Trademark Office shall number and date the application, and shall issue the corresponding receipt accrediting the filing, which may consist of a copy of the application filed, which shall state the number, place, date and time of filing.

2. Once the application has been received, the Spanish Patent and Trademark Office shall examine whether the documentation submitted complies with the requirements established in Articles 77 to 80 of the Regulations. If the examination carried out reveals any irregularity or defect, the processing will be suspended, notifying the objections observed to the applicant so that, within a period of two months, starting from the publication of the suspension in the "Official Bulletin of the Industrial Property", he may correct them or present his allegations. Once this period has elapsed, a decision shall be taken on the application for registration.

3. When the Spanish Patent and Trademark Office may reasonably doubt the veracity of any indication contained in the application for registration or in the documents that accompany it, it may require the applicant to provide evidence that accredits the veracity of such indications. The communication shall state the reasons for doubting the veracity of such information.

4. The Spanish Patent and Trademark Office shall not register assignments in favor of natural or legal persons who, in accordance with the provisions of Article 3 of the Law or civil or commercial regulations, cannot be the owners thereof.

5. The Spanish Patent and Trademark Office will resolve by granting or refusing, totally or partially, the application for registration. In the case of refusal, the reasons for the refusal shall be stated. The decision will be published in the "Official Bulletin of Industrial Property".

6. The preceding paragraphs shall apply to the requests for cancellation or modification provided for in Article 81 of these Regulations.

7. In the event that a chattel mortgage is constituted, it shall be governed by its specific provisions and shall be recorded in the fourth section of the Register of Movable Goods with notification of said recording to the Patent Register for its registration therein. To these effects both registries will be coordinated in order to communicate telematically the encumbrances registered or noted in them. For the purposes of adequate coordination, the Spanish Patent and Trademark Office and the Directorate General of Registries and Notaries may sign an agreement in which the conditions and technical specifications for telematic communication will be established.

CHAPTER II

Registration of full licensing offers

Article 83. *Application for registration of an offer of full license.*

1. The owner who, by virtue of Article 88 of the Law, wishes to authorize the use of the invention that is the object of his patent to any interested party as licensee, shall file an application with the Spanish Patent and Trademark Office. The request will imply the payment of the corresponding fee.

2. The application for registration of an offer of full license shall include:

- a) The identity of the patent holder.
- b) Where the owner acts through a representative, the identity of the representative, in accordance with the provisions of Article 2.2(a) of these Regulations.
- c) Number of the patent application in relation to which the offer is made.
- d) Signature of the applicant or his/her representative.

3. Once the application has been received, if the examination carried out reveals any irregularity or defect, processing shall be suspended, and the objections observed shall be notified to the patent owner so that, within a period of two months from the publication of the suspension in the

The application shall be filed in the "Official Bulletin of Industrial Property", to correct them or to present its allegations. Once this period has elapsed, the application for registration will be resolved.

4. The Spanish Patent and Trademark Office will decide whether to grant or deny the application for registration. In the case of refusal, the reasons for the refusal will be indicated. The decision will be published in the "Official Bulletin of Industrial Property".

Withdrawal of the offer of full license.

1. The patent holder who wishes to withdraw his license offer as of right, must file a request with the Spanish Patent and Trademark Office, which must include:

- a) The identity of the patent holder.
- b) Where the owner acts through a representative, the identity of the representative, in accordance with the provisions of Article 2.2(a) of these Regulations.
- c) Number of the patent application in relation to which you wish to withdraw the offer.
- d) Signature of the applicant or his/her representative.

2. Once the application has been received, the Spanish Patent and Trademark Office shall examine whether the documentation submitted complies with the requirements established in the previous section and, in particular, whether an application for the use of an invention subject to the full license regime has been filed. If the examination carried out reveals any irregularity or defect,

the proceedings shall be suspended, notifying the objections observed to the patent holder so that, within a period of two months from the publication of the suspension in the "Official Bulletin of Industrial Property". The applicant shall be required to correct them or to present his allegations. Once this term has elapsed, the request for withdrawal of the offer will be resolved, granting or denying the request for registration of withdrawal. In the case of refusal, the reasons for the refusal shall be indicated. The decision shall be published in the "Official Bulletin of Industrial Property".

3. The publication of the granting of the registration of the withdrawal of the offer of full license shall open the term provided for in Article 88.3 of the Law, for the payment of the reductions of the annuities.

Article 85. Application for obtaining a license by operation of law.

1. The interested party who, as a licensee, wishes to exploit the invention that has been the subject of an offer of license as of right, must file an application with the Spanish Patent and Trademark Office, which must include:

a) The identity of the applicant for the license, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.

b) When the interested party acts through a representative, the identity of the representative, in accordance with the provisions of paragraph a) of Article 2.2 of these Regulations.

c) Number of the patent application in relation to which the full license is requested.

d) Indication of the use to be made of the invention.

e) Signature of the applicant or his/her representative.

2. Once the application has been received, if the examination carried out reveals any irregularity or defect, the processing will be suspended, notifying the objections observed to the applicant so that, within a period of two months from the publication of the suspension in the

The application shall be filed in the "Official Bulletin of Industrial Property", to correct them or to present its allegations. Once this term has elapsed, the license application will be resolved as of right.

3. If the Spanish Patent and Trademark Office considers that there is no impediment, it will communicate the request for obtaining a license of right to the patent holder and the applicant for authorization, indicating that, after a period of one month from the receipt of the communication, the applicant is authorized to use the invention in the manner indicated in the application.

4. If within the period of one month indicated in the previous paragraph, the parties do not reach an agreement on the compensation to be paid by the licensee, any of them may request the Spanish Patent and Trademark Office to fix the appropriate amount of such compensation. The request shall be filed with the Spanish Patent and Trademark Office and shall involve the payment of the corresponding fee. The Spanish Patent and Trademark Office, before taking a decision, shall first hear both parties and may contact the institution it considers most appropriate in view of the circumstances of the case to request the appointment of an expert to advise it on the determination of the compensation to be paid by the licensee. The decision shall be communicated to the parties.

5. In the event that facts have occurred or become known that make it appear that the amount established is manifestly inadequate, any of the parties may request the Spanish Patent and Trademark Office to modify it. The request shall be filed with the Spanish Patent and Trademark Office and shall involve the payment of the corresponding fee. The Spanish Patent and Trademark Office, before making its decision, shall first hear both parties and may contact the institution it considers most appropriate in view of the circumstances of the case to request the appointment of an expert to advise it on the determination of the compensation to be paid by the licensee. The decision shall be communicated to the parties.

TITLE VI
Compulsory licenses

Article 86. *Application for compulsory license.*

1. Any person who, under Article 92 of the Law or the holder of a subsequent patent who, under Article 93 of the Law, wishes to apply for a compulsory license, shall file with the Spanish Patent and Trademark Office an application on the official model. The application shall be subject to the payment of the corresponding fee and shall contain:

a) The identity of the applicant, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.

b) When the interested party acts through a representative, the identity of the representative, in accordance with the provisions of paragraph a) of Article 2.2 of these Regulations.

c) The application number of the patent to which the compulsory license application refers, as well as the identification of the patent holder.

d) Evidence on the circumstances of the case that could justify the granting of compulsory licenses.

e) Proof of the prior attempt to obtain a contractual license, except in the cases provided for in Article 97.2 of the Law.

f) The purpose and scope of the license sought and the reasons supporting such claim.

g) The data allowing to judge that the applicant has the means to carry out a real and effective exploitation of the patented invention and that he offers the guarantees that the patent holder may reasonably require to grant a license.

h) Signature of the applicant or his/her representative.

2. If, in application of the provisions of Articles 94 and 95 of the Law, it is decreed that a patent shall be subject to the compulsory licensing system, the Spanish Patent and Trademark Office shall publish a mention in the "Official Industrial Property Gazette". Thereafter, any person wishing to apply for a compulsory license shall file an application in accordance with the requirements set forth in the preceding paragraph.

3. Once the application has been received, the Spanish Patent and Trademark Office will examine whether the documentation presented complies with the requirements established in the previous sections. If the examination carried out reveals any irregularity or defect, the processing shall be suspended, notifying the objections observed to the applicant for the compulsory license so that, within a period of two months from the publication of the suspension in the "Official Industrial Property Gazette", he may remedy them or present his arguments. Otherwise, the grant of the compulsory license will be denied. The resolution of refusal will be communicated to both parts and will be published in the "Official Bulletin of the Industrial Property".

Article 87. *Processing procedure.*

1. If the examination does not reveal any defects in the compulsory license application or such defects have been duly remedied, the Spanish Patent and Trademark Office shall transfer the compulsory license application and the accompanying documents to the patent holder so that, within a maximum period of one month from the publication of the suspension in the Official Industrial Property Gazette, he may make the arguments he deems appropriate and, where appropriate, provide the necessary evidence in support of his allegations.

2. If the patent owner does not reply within the prescribed period, the Spanish Patent and Trademark Office will proceed to grant the compulsory license. If the patent owner replies, the Spanish Patent and Trademark Office will evaluate the allegations and evidence presented by both parties.

3. At the request of both parties, the Spanish Patent and Trademark Office may suspend the processing of the file only once for such period as it deems appropriate in view of the circumstances of the case. This period may not exceed six months.

4. When the Spanish Patent and Trademark Office considers that the circumstances justifying the granting of the compulsory license are met, it will publish it in the "Official Industrial Property Gazette". If the applicant does not comply with the provisions of Article 99 (2) to (4) of the Law, the grant of the compulsory license shall be refused. Otherwise, the grant of the compulsory license shall be refused.

5. The Spanish Patent and Trademark Office shall contact the institution it considers most appropriate given the circumstances of the case to request the appointment of the expert to be appointed pursuant to Article 99(2) of the Law.

6. The resolution granting the compulsory license shall determine its contents. In particular, it will have to fix the scope of the license, the royalty, the duration, the guarantees to be provided by the licensee, the moment from which he must begin the exploitation and any other clauses that ensure that he will exploit the patented invention in a serious and effective manner. Likewise, the decision shall determine the expenses to be borne by each party, which shall be those caused at his request, and the payment of all expenses may be imposed on one of the parties when it is declared that he has acted recklessly or in bad faith. Common expenses shall be paid in half.

7. Both the decision granting the license and the decision denying it shall be communicated to both parties and shall be published in the "Official Industrial Property Gazette".

Compulsory licenses for the manufacture of drugs for countries with public health problems.

The application and processing procedure in the case of compulsory licenses for the manufacture of medicines intended for countries with public health problems provided for in Article 96 of the Law shall be governed by the provisions of Regulation (EC) No. 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems.

TITLE VII

Patent expiration

CHAPTER I

For lack or inadequacy of the exploitation of the patent

Article 89. *Forfeiture due to lack or insufficiency of exploitation of Article 108.1.d) of the Law.*

1. The administrative forfeiture proceedings provided for in Article 108.1.d) and 4 of the Law may be initiated ex officio or at the request of an interested party.

2. The letter of request for revocation shall be notified to the patent owner and to the licensees of all compulsory licenses registered or in the process of registration so that, within a period of two months from the notification, they may present the appropriate arguments.

3. Once the period indicated in the preceding paragraph has elapsed, the Spanish Patent and Trademark Office shall decide, taking into consideration the content of the license granted pursuant to Article 99 of the Law, especially as regards the scope of the license and other relevant clauses relating to the exploitation or delay of commencement of exploitation, in accordance with the provisions of paragraphs 4 and 7 of the aforementioned Article.

4. The lapse of the patent may not be agreed if, two years after the grant of the first compulsory license, the invention is being exploited or if, not being exploited, there are compulsory license applications in process in accordance with article 98 of the Law or other compulsory licenses granted, proceeding in such case to the cancellation of all the compulsory licenses granted and not exploited in the two years following their grant. For the purposes of article 108.1.d) of the Law, a compulsory license that has been cancelled shall not be considered as a first license.

compulsory licenses granted, except in the case that all compulsory licenses granted have been cancelled and there are no pending applications for compulsory licenses.

Article 90. Forfeiture due to lack or insufficiency of exploitation of Article 108.1.e) of the Law.

1. The forfeiture provided for in Article 108.1.e) of the Law shall be declared after the corresponding proceedings have been initiated ex officio or at the request of the interested party.

2. The owner of the patent shall be notified of the notice of request for revocation so that, within a period of two months from the date of notification, he may present allegations and evidence justifying the circumstances that condition the exploitation.

3. Once the period indicated in the previous paragraph has elapsed, the Spanish Patent and Trademark Office shall issue a decision.

Article 91. Resolution.

1. If the Spanish Patent and Trademark Office declares the lapse of the patent due to lack or insufficiency of exploitation, according to Article 108.1.d) or 108.1.e) of the Law, the owner and, if applicable, the compulsory licensee, as well as any holder of any right registered on the patent, shall be notified and it shall be published in the "Official Industrial Property Gazette".

2. If the Spanish Patent and Trademark Office cancels a compulsory license that has not been used in accordance with Article 89.4 of these Regulations, this decision shall be notified both to the owner of the patent and to the licensee of the cancelled compulsory license, as well as to any owner of any right registered on the patent, and shall be published in the "Official Industrial Property Gazette".

CHAPTER II

Due to resignation of the owner

Total or partial waiver of the patent.

1. The application for the surrender of the patent in accordance with the provisions of Article 110 of the Law shall be filed with the Spanish Patent and Trademark Office, which shall include:

- a) An indication that a partial or total surrender of the patent is requested.
- b) The identity of the patent owner, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.
- c) In the event that a representative has been appointed, the identity of the representative, in accordance with the provisions of article 2.2 (a) of these Rules.
- d) The application number of the patent whose surrender is requested.
- e) In the event that partial disclaimer is requested, indication of the claims to be disclaimed.
- f) Signature of the patent holder or his representative.

2. Where, in accordance with the provisions of Article 110(4) of the Law, the consent of the owner of a registered right in the patent or, as the case may be, of the plaintiff in an action for the assertion or invalidation of a patent, it shall be sufficient to attach to the application a declaration signed by the said owner of the right or the plaintiff, or by his representative, accepting the said waiver.

3. The Spanish Patent and Trademark Office shall examine whether the request for surrender complies with the requirements and conditions provided for in the Law and these Regulations. In particular, in the event that a partial surrender is requested, it shall be verified that such surrender does not imply an extension of the subject matter of the patent. In the event that irregularities exist, the processing shall be suspended and the owner shall be notified so that, within a period of two months from the publication of the suspension in the "Official Gazette of the Spanish Patent and Trademark Office", he may, within a period of two months from the publication of the suspension in the "Official Gazette of the Spanish Patent and Trademark Office", file an application for the surrender of the patent.

Industrial Property", answer to the same. If the defects indicated are not corrected within the established term, the registration of the requested waiver will be denied.

4. The Spanish Patent and Trademark Office will publish in the "Official Bulletin of Industrial Property" the agreement of acceptance of the surrender. In case of total surrender, the patent shall lapse in accordance with Article 108.1.b) of the Law. In case of partial surrender, the claims that have been the object of the surrender and those for which the patent would have remained subsisting shall be specified. In the latter case, if the patent owner has provided a new text adapting the claims, a new brochure shall be published, upon payment of the corresponding fee, which shall include the indications mentioned in Article 39.9 of these Regulations, replacing the references to the maintenance of the grant in an amended form with an indication of partial surrender.

TITLE VIII

Application of international conventions

CHAPTER I

Implementation of the Convention on the Grant of European Patents

Filing of European patent applications that do not claim priority from an earlier filing in Spain.

1. European patent applications filed with the Spanish Patent and Trademark Office which do not claim the priority of an earlier filing in Spain and which are written in a language other than Spanish, must be accompanied by a translation into Spanish of at least the title and abstract. In the event that this translation has not been provided, the applicant will be requested to provide the translation within a period of one month from the date of publication in the "Official Bulletin of Industrial Property".

2. If, in application of the provisions of Article 34 and Title XI of the Law, the Spanish Patent and Trademark Office considers that the invention that is the subject matter of the European patent application may be of interest for national defense, it shall request the applicant to provide, within a period of one month, a translation into Spanish of the description and claims and a copy of the drawings, if any, even if they do not contain expressions that must be translated.

3. Once the documentation has been received, it shall be forwarded to the Ministry of Defense so that, as soon as possible within the term for the transmission of European patent applications to the European Patent Office prescribed in Rule 37.1.b) of the Implementing Regulations of the Convention on the Grant of European Patents (done at Munich on October 5, 1973), it may issue a reasoned report on whether the subject matter of the European patent application could be of interest to national defense.

4. In the event that the Ministry of Defense considers that the invention is of interest for the national defense, it will request the Spanish Patent and Trademark Office to decree the secret processing of the same one and to carry out the corresponding notification to the applicant. Likewise, before the lapse of the prescribed term indicated in the previous paragraph, the Spanish Patent and Trademark Office will communicate to the European Patent Office that it will not transmit the European patent application.

Procedure for the provisional protection of the published European patent application.

1. In order to obtain the provisional protection referred to in Article 154 of the Law, the applicant for a European patent shall request it before the Spanish Patent and Trademark Office. Said request shall imply the payment of the corresponding fee.

2. The application for provisional protection must include:

a) The identity of the European patent applicant, in accordance with the provisions of paragraph b) of Article 2.1 of these Regulations.

b) When the applicant acts through a representative, the identity of the representative, in accordance with the provisions of paragraph a) of Article 2.2 of these Regulations.

c) The European patent application or publication number for which provisional protection is sought.

d) The title of the invention to which the European patent application refers, translated into Spanish.

e) Signature of the applicant or his/her representative.

3. The application shall be accompanied by a translation into Spanish of the claims, as well as a copy of the drawings, if any, and a translation of the expressions contained therein. As for the formal requirements of the translated claims, they shall be those provided for in the Annex to these Regulations.

4. Once the application has been received, the Spanish Patent and Trademark Office shall examine whether the documentation submitted complies with the requirements established in the preceding paragraphs. If the examination carried out reveals any irregularity or defect, the processing will be suspended, notifying the objections observed to the applicant so that, within a period of two months, starting from the publication of the suspension in the "Official Bulletin of the Industrial Property", he may correct them or present his allegations. Once this period has elapsed, the application will be resolved.

5. Within a period of one month from the date of submission of the translation or of the correction of the defects, a notice granting or refusing provisional protection shall be published in the "Official Bulletin of Industrial Property". Likewise, if applicable, a brochure with the claims and drawings, if any, shall be published.

Procedure for the definitive protection of the European patent.

1. Pursuant to the provisions of Article 155 of the Law and within the term provided for in its second paragraph, the owner of a European patent who wishes to obtain definitive protection in Spain must file with the Spanish Patent and Trademark Office the translation of the European patent as granted. The application for definitive protection will imply the payment of the corresponding fee.

2. The application for definitive protection must include:

a) The identity of the European patent holder, in accordance with the provisions of paragraph b) of Article 2.1 of this Regulation.

b) Where the owner acts through a representative, the identity of the representative, in accordance with the provisions of Article 2.2(a) of these Regulations.

c) The application or publication number of the European patent whose definitive protection is requested.

d) The title of the invention referred to in the European patent, translated into Spanish.

e) Signature of the holder or his representative.

3. The application shall be accompanied by the translation into Spanish of the complete prospectus of the European patent as granted, amended or limited by the European Patent Office. As regards the formal requirements of the translated prospectus (description, claims, drawings and biological sequences, if applicable), they shall be those provided for in the Annex to this Regulation.

4. Once the application has been received, the Spanish Patent and Trademark Office shall examine whether the documentation submitted complies with the requirements established in the preceding paragraphs. If the examination carried out reveals any irregularity or defect, the processing will be suspended, notifying the objections observed to the holder so that, within a period of two months, starting from the publication of the suspension in the "Official Bulletin of the Industrial Property", he corrects them or presents his allegations. Once this period has elapsed, the application will be resolved.

5. Within a period of one month from the date of submission of the translation or of the correction of the defects, a notice granting or refusing definitive protection shall be published in the "Official Industrial Property Gazette". Where appropriate, a brochure shall be published under the same conditions and with the same content as for national patents, with the exception of the abstract.

Revision of the translation.

1. The applicant or the holder of a European patent may, at any time and during the legal life of the patent, revise the translation previously submitted to the Spanish Patent and Trademark Office.

2. The procedure for requesting the publication of the revision of the translation shall be as provided in the preceding articles and shall be subject to the payment of the corresponding fee.

Correction of brochures by the European Patent Office.

For those prospectuses published by the European Patent Office in respect of which the applicant or holder has filed a Spanish translation with the Spanish Patent and Trademark Office, in the event that the European Patent Office publishes a correction, the applicant or holder of the European patent must file with the Spanish Patent and Trademark Office the corresponding correction of the prospectus translated into Spanish or an indication that such correction does not affect the European patent with effects in Spain. If the applicant or holder does not submit the translation of the correction, the correction will not be effective in Spain.

Transformation of the European patent application.

1. The European patent application shall be considered, from the date of receipt of the request for conversion by the Spanish Patent and Trademark Office, as a national application.

2. Once the request for conversion has been received, the Spanish Patent and Trademark Office will notify the applicant so that, within two months from the publication in the "Official Industrial Property Gazette", he/she may file the national application and pay the corresponding fees. At that time, the applicant must choose whether to protect the invention by means of a patent or a utility model.

3. The patent or utility model application shall be governed by the requirements and formalities provided for in the Law and these Regulations. With respect to the translation into Spanish, if the text of the European patent application has undergone modifications in the course of the procedure before the European Patent Office, the applicant will have to provide, within the term foreseen in the previous section, the translation of the text on which he wishes to base the granting procedure before the Spanish Patent and Trademark Office.

4. The national application resulting from the conversion of a European patent application shall keep the filing date that would have been agreed upon by the European Patent Office.

CHAPTER II

Implementation of the Patent Cooperation Treaty (PCT)

The Spanish Patent and Trademark Office as receiving Office.

An international application filed with the Spanish Patent and Trademark Office as receiving office shall give rise to the payment of the transfer fee provided for in Article 163.3 of the Law. The said fee shall be paid within a period of one month from the receipt of the international application by the Spanish Patent and Trademark Office. In the event of non-payment of the fee, the procedure shall be in accordance with the provisions of Rule 16bis of the PCT.

Procedure for Provisional Protection of Published International Application.

1. For the purposes of Article 170.2 of the Law, when the international application has been published in a language other than Spanish, the applicant shall request provisional protection before the Spanish Patent and Trademark Office. Said request shall imply the payment of the corresponding fee.

2. The application for provisional protection must include:

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- a) The identity of the applicant for the international application, as referred to in Article 2.1(b) of these Regulations.
 - b) When the applicant acts through a representative, the identity of the representative, in accordance with the provisions of paragraph a) of Article 2.2 of these Regulations.
 - c) The application or publication number of the international application for which provisional protection is sought.
 - d) The title of the invention to which the international application refers, translated into English.
 - e) Signature of the applicant or his/her representative.

3. The application shall be accompanied by the Spanish translation of the international application as published, as well as by a copy of the drawings, if any, and by a translation of the expressions contained therein. As regards the formal requirements of the translated documents, they shall be those provided for in the Annex to these Regulations.

4. Once the application has been received, the Spanish Patent and Trademark Office shall examine whether the documentation submitted complies with the requirements established in the preceding paragraphs. If the examination carried out reveals any irregularity or defect, the processing shall be suspended, notifying the objections observed to the owner so that, within a period of two months, starting from the publication of the suspension in the "Official Bulletin of Industrial Property", he may correct them or present his allegations. Once this period has elapsed, the application will be resolved.

5. Within a period of one month from the date of submission of the translation or of the correction of the defects, a notice granting or refusing provisional protection shall be published in the "Official Industrial Property Gazette". Where appropriate, a brochure shall be published under the same conditions and with the same content as for national patents.

Processing of the International Application in the National Phase.

1. The time limit for entering the national phase, as provided for in Article 169.1 of the Law, shall be that set forth in Articles 22 or 39 of the PCT.

2. In order to enter the national phase, the applicant must submit the following documentation and information to the Spanish Patent and Trademark Office:

- a) An application indicating that it is an international application that enters the national phase before the Spanish Patent and Trademark Office, as indicated in the article 2.2.b) of these Regulations;
 - b) Type of protection sought: patent or utility model. Only one type of protection may be requested for each international application.
 - c) The identity of the applicant, as provided in paragraph (b) of Article 2.1 of these Regulations, and of his representative, if any, as provided in paragraph (a) of Article 2.2 of these Regulations. Where the applicant is not the same as the applicant of the international application on the international filing date, a document of assignment shall be furnished, unless the change in the person of the applicant was made in accordance with Rule 92bis of the PCT.
 - d) Any priority claim indicated in the international application. If the applicant is not the same as the person appearing as such in the priority application, a document containing evidence of the applicant's entitlement to claim the priority of the earlier application must be furnished. Such evidence need not be furnished if the request of the PCT international application contains a declaration relating to PCT Rule 4.17(iii) which has been accepted by the competent receiving Office or by the International Bureau of the World Intellectual Property Organization. In addition, the priority fee must be paid.
 - e) The Spanish translation of the international application as originally filed and, if applicable, of the amendments made under Articles 19 or 34 of the PCT. In the event that the applicant, on entering the national phase, wishes to make amendments, he shall furnish them in Spanish and attach a statement indicating the differences between the PCT international application as filed or amended in the international phase and the amendments made on entering the national phase. The said letter must indicate the reasons for these modifications and specify the documents
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the description, claims and, if applicable, the drawings, on which you wish to base the granting procedure before the Spanish Patent and Trademark Office.

3. In order to enter the national phase, the applicant shall pay, within the term provided for in paragraph 1, the application fee and, if applicable, the priority fee provided for in paragraph 2.d). When the type of protection requested is a patent, the applicant shall also pay, within the same period, the fee for the preparation of the report on the state of the art provided for national patents.

4. If the Spanish Patent and Trademark Office detects any irregularity under paragraphs 1 and 2, it shall notify the applicant so that, within a period of two months from the publication of the suspension in the "Official Bulletin of Industrial Property", he may present allegations or remedy the deficiencies detected, indicating that, otherwise, he shall be considered to have withdrawn the application. The withdrawal decision shall be notified to the applicant and shall be published in the "Official Bulletin of Industrial Property".

5. Once the requirements of the preceding paragraphs have been verified, the international application shall be processed as a national patent or utility model application in accordance with the provisions of the Law and these Regulations.

6. Once the national phase has begun, it shall be examined whether the fees referred to in paragraph 3 have been paid. If non-payment or insufficient payment of the fees is detected, the applicant shall be notified to make or complete payment within a period of one month from the publication of the defect in the "Official Bulletin of Industrial Property", with the indication that if he fails to do so, the application shall be considered withdrawn. The resolution of withdrawal shall be notified to the applicant and shall be published in the "Official Bulletin of Industrial Property".

7. The defects of paragraphs 1 to 3 of this article may be communicated to the applicant jointly by means of a single notification, granting a common term of two months as of its notification for its correction, with the indication that if the applicant fails to do so, the application shall be considered as withdrawn.

8. Where, in accordance with the provisions of Article 17.3 of the PCT, the international search report has only been carried out in relation to one or more claims, because the international application does not satisfy the requirement of unity of invention, the Spanish Patent and Trademark Office shall examine whether the invitation made to the applicant by the International Searching Authority to pay the additional fees was justified. If the Spanish Patent and Trademark Office considers that the invitation was justified, it shall proceed according to the provisions of the Patent Law and these Regulations for those applications that do not comply with the requirement of unity of invention. If, on the contrary, the Spanish Patent and Trademark Office considers that there is unity of invention, a search shall be carried out for the claims not searched and a report on the state of the art and a written opinion shall be issued.

TITLE IX

Claiming the right to the patent

Finality of the judgment of rejection and resumption of the proceeding.

Upon notification of the finality of the judgment or decision terminating the proceedings rejecting the claim referred to in Article 11 of the Law, the Spanish Patent and Trademark Office shall publish in the "Official Industrial Property Gazette" the rejection of the claim, lift the suspension of the proceedings and resume the grant procedure.

Finality of the judgment and options of the entitled holder.

1. Once duly notified of the finality of the judgment or of the decision terminating the proceedings by which the claim referred to in Article 11 of the Law is upheld, and provided that the patent has not yet been granted, the plaintiff shall choose one of the options of paragraph 1 of Article 11 within a period of three months from the date of said finality. Once the period of three months has elapsed without the

If the actor has communicated his choice, it will be considered that he requests that the patent application be denied. In this case the Spanish Patent and Trademark Office shall be bound by the provisions of paragraph 4 of this Article.

2. If the plaintiff chooses to continue the proceedings relating to the application by subrogating himself to the position of the applicant:

a) When the Judge has not ordered the suspension of the granting procedure, the procedure will continue with the new applicant through the corresponding procedure;

b) when the Judge has ordered the suspension of the granting procedure, the suspension shall be without effect and the Spanish Patent and Trademark Office shall publish in the

The "Official Bulletin of Industrial Property" the resumption of the granting procedure with the new applicant by the corresponding procedure.

3. If the plaintiff chooses to file a new patent application for the same invention, the new application, in application of the provisions of Article 26.3 of the Law, shall maintain the filing date of the original application, insofar as its subject matter was already contained in that application. As from the filing date of the new application, the original application shall be considered withdrawn.

The plaintiff shall maintain this right to file a new patent application, notwithstanding that the original patent application has been denied, withdrawn or considered withdrawn.

4. If the plaintiff chooses to request that the application be denied, the Spanish Patent and Trademark Office will decide to deny the application and will publish the decision in the "Official Industrial Property Gazette".

Partial recognition of the right to obtain the patent.

Article 11 of the Law and Articles 102 and 103 of these Regulations shall apply *mutatis mutandi* when the court decision declares that the plaintiff is only entitled to obtain the patent as co-owner of the patent application.

TITLE X

Fees

Article 105. *Reduction of fees of paragraph 1 of article 186 of the Law.*

1. Entrepreneurs who, having the status of natural person or small and medium-sized enterprise, apply for a patent or a utility model, must request from the Spanish Patent and Trademark Office the recognition of the right to fee reduction provided for in Article 186 of the Law. Together with the request, they must provide the documents accrediting, by any means recognized in Law, that the applicant complies with the definition of entrepreneur established in Law 14/2013, of September 27, on support for entrepreneurs and their internationalization and with the definition of small and medium-sized enterprise adopted by Recommendation 2003/361/EC, of the European Commission, of May 6, on the definition of micro, small and medium-sized enterprises.

2. In the event that any irregularity is detected or any documentation is missing, the applicant will be notified of the defects observed so that within a period of two months from the publication of the suspense in the "Official Bulletin of the Industrial Property", he may correct them or present his allegations. Once this period has elapsed, the application for recognition of the right to the fee reduction shall be resolved.

3. Pending a decision, the patent or utility model file will be processed provisionally, and the applicant will have to pay 50 percent of the accrued fees and the payment made will be recorded by the Spanish Patent and Trademark Office.

4. The decision on the recognition of the right to the fee reduction shall be notified to the applicant and published in the "Official Industrial Property Gazette". In the event of a refusal, a period of ten days shall be allowed for the applicant to proceed to

to pay the total amount of the accrued fees, with the indication that if this is not done, the application will be considered abandoned.

5. In the event of a resolution recognizing the right, the file will be processed and a record will be made of the amounts accrued and paid in each administrative act.

Article 106. Fee subsidies to Public Universities.

1. In the event that a Public University wishes to benefit from the one hundred percent rebate of the amount of the fees referred to in section 2 of the tenth additional provision of the Law, such refund must be requested before the Spanish Patent and Trademark Office.

2. The procedure and conditions for the refund request will be those provided for in articles 124 and following of Law 58/2003, of December 17, 2003, General Tax Law, and in its implementing regulations. Likewise, together with the refund application, the applicant must prove that the invention covered by the patent, the utility model or the complementary protection certificate or its extension in respect of which the refund of fees is requested is being economically exploited in a real and effective manner. The means of proof will be those admitted in law.

3. Those fees that accrue after the recognition of the right to the refund, must be paid fifty percent, in accordance with the provisions of section 1 of the tenth additional provision of the Law, without prejudice to the possibility of requesting a one hundred percent rebate. For this purpose, the refund of the amount paid shall be requested in the manner provided for in the preceding paragraph, providing a declaration by the owner that the invention covered by the patent, utility model or complementary protection certificate or its extension continues to be exploited.

TITLE XI

Representation before the Spanish Patent and Trademark Office.

Representation in the field of inventions.

Except as provided for in Article 175(2) of the Law, no person shall be obliged to be represented before the Spanish Patent and Trademark Office. However, those who are party to proceedings before the Spanish Patent and Trademark Office in which they act on their own behalf and have neither domicile nor registered office in Spain must designate, for the purpose of notifications, a postal address in Spain or, alternatively, indicate that notifications be addressed to them by any other technical means of communication available to the Office.

Accreditation of representation in inventions.

1. It will not be necessary to provide power of attorney, except in the following cases:

- a) In case of reasonable doubt as to the representative's right to act.
- b) When an appointment is made or any document is filed by a representative not indicated on the filing date in the patent, utility model or supplementary protection certificate application or its extension.
- c) When the registration of an assignment, change of name, license or other legal business is requested.
- d) When the registration of a waiver, withdrawal, limitation or revocation is requested.
- e) When an opposition to a utility model application or to the grant of a patent is filed.

2. For those cases in which representation must be accredited, the representatives must present to the Spanish Patent and Trademark Office the corresponding power of attorney signed by the interested party for its inclusion in the file. The power of attorney may be granted for one or more applications or for one or more registrations identified in the power of attorney. A general power of attorney may be filed empowering the representative to

act in connection with all formalities relating to patents of invention, utility models, supplementary protection certificates or their extensions of the principal.

3. When the Spanish Patent and Trademark Office is notified of the appointment of a representative, the corresponding power of attorney must be filed within two months from said notification or within two months from the publication of the notice in the "Official Industrial Property Gazette", whichever period expires later. In the event that the power of attorney is not filed within the periods prescribed above, the procedure shall continue with the represented party. The acts carried out by the non-accredited representative, with the exception of the filing of the patent application, utility model or supplementary protection certificate or its extension, shall be considered not to have been carried out if they are not confirmed by the represented party within the periods previously provided for. All the above without prejudice to the provisions of the first paragraph of this article.

4. Any representative who, for any reason, ceases to be an authorized representative shall continue to be considered as such until the Spanish Patent and Trademark Office or the competent body has been notified of the termination of his power of attorney.

5. Unless the power of attorney itself provides otherwise, its extinction due to the death of the grantor shall not prevent the attorney-in-fact from performing before the Spanish Patent and Trademark Office the acts of preservation, defense and maintenance of the applications and registrations of the grantor that are essential until the granting of a new power of attorney or the appointment of a new attorney-in-fact by the heirs of the grantor or the personal appearance of the latter.

Article 109. *Aptitude test.*

1. For the aptitude examination referred to in Article 177.1.e) of the Law, the Director of the Spanish Patent and Trademark Office shall make the corresponding public announcements annually, which period may be extended to a maximum of two years for duly justified reasons.

2. The bases of the calls for applications shall regulate the procedure for access to the tests and the procedure for conducting and grading them, in accordance with the following guidelines:

a) The purpose of the aptitude test shall be to assess whether the applicant possesses the necessary knowledge to carry out the professional activity defined in Article 176.1 of the Law, in particular whether the applicant has a sufficiently broad knowledge of the national and international rules that regulate and affect industrial property and whether he is familiar with the handling of such knowledge, to apply it in the conditions that usually arise for an Industrial Property Agent during the exercise of his profession, among which is included the knowledge of foreign languages.

b) The exam will consist of theoretical, practical and foreign language tests, all of which must be passed individually, on the basis of the program that will be made public together with the call for applications.

3. The examining board shall be designated in the summons and shall be composed of an odd number of members, not less than five, and alternate members shall also be designated. The members of the selection board shall be appointed from among specialists in industrial property matters who have a qualification equal to or higher than that required by Article

177.1.d) of the Law. The selection board will be responsible for the development and qualification of the selective tests in accordance with the terms and conditions of the call for applications. The respective calls may determine that the accreditation of having obtained the university master's degree that includes modules, subjects or competences related to industrial property will increase the qualification obtained in the corresponding theoretical test of the aptitude examination by twenty-five percent of the maximum possible score assigned to the theoretical tests for the applicants who have passed the corresponding exercise.

4. The qualifying board shall submit to the Director of the Spanish Patent and Trademark Office the list of the applicants who have passed the aptitude examination. The Director of the Spanish Patent and Trademark Office shall give adequate publicity to the list of successful candidates and shall issue the corresponding certificates of aptitude, accrediting the requirement established in Article 177.1.e) of the Law.

Exercise of the professional activity and Special Registry of Industrial Property Agents.

1. In order to begin the activity of Industrial Property Agent it will be necessary to have previously filed with the Spanish Patent and Trademark Office a responsible declaration in which the interested parties state, under their responsibility, that they meet all the requirements established in Article 177 of the Law, that they have the accrediting documentation, that they are not affected by the incompatibilities of Article 178 of the same legal body and that they undertake to maintain their compliance until they cease their activity, due to any of the circumstances provided for in Article 180 of the Law.

2. The responsible declaration authorizes the exercise of the activity, from its presentation, in all the national territory and for an indefinite period. Once the responsible declaration has been received, the Spanish Patent and Trademark Office will proceed ex officio to register the Industrial Property Agent in the Special Register of Industrial Property Agents. If the responsible declaration contains any defect, the Spanish Patent and Trademark Office shall request the interested party to correct it within a period of ten days, stating that, if he fails to do so, the responsible declaration shall be deemed not to have been filed.

3. The presentation of documentation accrediting compliance with the requirements together with the responsible statement may not be required. However, this documentation must be available for presentation before the Spanish Patent and Trademark Office when so required.

For the purposes of accrediting compliance with the requirements demanded by the regulations in force, documents from another Member State of the European Union from which it can be deduced that such requirements are met under the terms provided in Article 17.2 of Law 17/2009, of November 23, on free access to service activities and the exercise thereof, shall be accepted.

Article 111. *Registration of Professional Companies in the Special Registry of Industrial Property Agents.*

1. For the purposes of Article 176 of the Law, in order for a legal entity to obtain registration in the Special Registry of Agents of the Spanish Patent and Trademark Office, the responsible statement submitted by the legal entity must contain the following data:

a) Name of the legal entity, tax identification number, registered office, address for the purpose of notifications, mention that the legal entity is registered as a Professional Partnership as well as the details of the practicing Industrial Property Agent partner.

b) The presentation of the application for registration, which entails the payment of the corresponding fee, must be signed by the person representing the professional company.

2. If the Spanish Patent and Trademark Office detects the lack of any requirement, it will notify the applicant of the registration, granting a period of ten days for its correction and indicating that otherwise the application for registration will be considered abandoned.

3. To the opportune registry effects, the Professional Society will communicate to the Spanish Patent and Trademark Office the changes that take place in the condition of its partner Industrial Property Agent and in its corporate name.

Article 112. *Employees and assistants of representatives.*

1. In their actions before the Spanish Patent and Trademark Office, representatives, whether natural or legal persons, may use employees or assistants who, under their direction, supervision and responsibility, carry out the material operations inherent to their management, such as payment of fees, presentation of documents, appearance for the collection of official communications, withdrawal of titles or other analogous ones, for which purpose they shall present the corresponding authorization and proof of payment of the corresponding fee.

2. To be an employee or auxiliary of a representative, it shall be necessary to have reached the age of majority and not be subject to the incompatibilities established for them.

3. The representatives shall communicate to the Office any modification or termination of effect of the authorizations granted to their employees or assistants.

Article 113. *Freedom to provide services in the European Union.*

Industrial Property Agents established in another Member State of the European Union, who temporarily provide their services in Spain must comply with the rules on access and practice of the profession approved by Royal Decree 1837/2008, of November 8, 2008, by which Directive 2005/36/EC of the European Parliament and the Council of September 7 and Directive 2006/100/EC of the Council of November 20, 2006, relating to the recognition of professional qualifications as well as to certain aspects of the practice of the profession of lawyer and the regulations that develop it, are incorporated into the Spanish legal system, of the Council of November 20, 2006, relating to the recognition of professional qualifications and certain aspects of the exercise of the profession of lawyer and the regulations that develop it, having to present a previous declaration according to the model approved by the Spanish Patent and Trademark Office, which must be renewed annually in case of continuing the temporary provision of services.

Delegation of representation.

1. The Industrial Property Agents may delegate their representation to another Industrial Property Agent, but in this case the acting Industrial Property Agent must always use the pre-signature: "For the Industrial Property Agent. Mr./Mrs. ", stating the number of inscription in the Register of both. In the files in which a substitute intervenes, in accordance with what is established in this section, his responsibility will be affected together with that of the replaced Industrial Property Agent.

2. Industrial Property Agents may not intervene by delegation in those files in which they are a party, carrying another representation whose interests are different. When this occurs, the course of the case shall be declared suspended and the represented party shall be notified directly, and shall be granted a period of fifteen days to appear in person or, where appropriate, to appoint another industrial property agent to represent him.

3. All the provisions of the preceding paragraphs shall be applicable when the delegation involves a legal entity registered in the Special Register of Industrial Property Agents.

Article 115. *Continuous training in industrial property.*

The Spanish Patent and Trademark Office may periodically convene courses on industrial property matters in order to facilitate continuous training in this area.

First Additional Provision. *Regime of the procedures.*

In accordance with the first additional provision of the Law, the procedures regulated in these Regulations shall be governed by their specific regulations and, in matters not provided for therein, by the provisions of Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations. In particular, the resolutions issued in the procedures of these Regulations shall be subject to appeal in accordance with the provisions of said Law 39/2015, of October 1, with the exception of the maximum term for the resolution of appeals, which shall be as set forth in the ministerial order on maximum terms.

Second additional provision. *Official forms and presentation.*

1. Applications and other documents must be submitted in the official models established for this purpose by the Spanish Patent and Trademark Office. Said models shall be available to citizens at the electronic headquarters of the Spanish Patent and Trademark Office. In any case, the standard international forms established for that purpose by the Patent Law Treaty Assembly pursuant to Rule 20 of its Regulations shall be accepted.

2. By Resolution of the Director of the Spanish Patent and Trademark Office, the formal and technical requirements for the electronic filing of any type of application and other documents may be established in accordance with Article 22.3 of the Law.

3. The Industrial Property Agents referred to in Article 176 of the Law, as well as legal entities, shall be obliged to relate to the Spanish Patent and Trademark Office by electronic means.

4. Any request regarding any of the procedures regulated in these Regulations may be submitted in the places and by the means provided for in Article 22 of the Law.

Third additional provision. *Digital libraries accepted by the Spanish Patent and Trademark Office.*

For the purposes of the provisions of these Regulations, the Spanish Patent and Trademark Office shall make available to the public a list of the digital libraries accepted by it. Said list shall appear at the electronic headquarters of the autonomous body.

Fourth additional provision. *Issuance of certifications and authorized copies in electronic format.*

By means of a Resolution of the Director of the Spanish Patent and Trademark Office, the conditions under which the certifications and authorized copies in all industrial property modalities are issued in electronic format may be established. Likewise, the conditions shall be established for the authorized copies to be made available in those accepted Digital Libraries in which the Spanish Patent and Trademark Office participates.

In all other respects, evidence of any matter relating to registered rights shall be governed by the general rules, in particular, the provisions of the seventh additional provision of Law 20/2003, of July 7, 2003, on the Legal Protection of Industrial Design and the Law on Civil Proceedings, and simple reports issued by the Office in the course of grant procedures or to fulfill its promotion, information and technological development services may not be considered expert evidence.

Fifth additional provision: *Expert report of the Spanish Patent and Trademark Office pursuant to Article 120.7 of the Law.*

1. The report referred to in Article 120.7 of the Law shall be made by whoever is designated in the Patent Department and its content shall be limited to those specific points on which it is required by the Judge or Court. The report shall be issued within a period of one month after the person designated to make the report has received the corresponding petition and documentation on which the report is to be issued and, where applicable, the fee has been paid in full.

2. In the event that the report is requested at the request of a party, the corresponding fee must be paid. In the event that the said fee has not been paid or has not been paid in full, the applicant shall be granted a period of ten days as from the publication of the non-payment in the "Official Bulletin of Industrial Property" for its payment, indicating that if he fails to do so, the application shall be considered withdrawn.

Sixth additional provision. *Extrajudicial resolution of disputes.*

1. For the purposes of the provisions of Article 136 of the Law, arbitrators and mediators may be those persons, including officials of the Spanish Patent and Trademark Office, who meet the requirements established in Law 60/2003, of December 23, 2003, on Arbitration and in Law 5/2012, of July 6, 2012, on mediation in civil and commercial matters and who also accredit a minimum experience of five years in the field of Industrial Property.

2. The Spanish Patent and Trademark Office may enter into agreements with national, European or international bodies with experience in arbitration and mediation for the organization and intervention in the out-of-court settlement of Industrial Property disputes.

ANNEX

Formal requirements of the patent application

1. Page design
 - a) Format: A4
 - b) Margins:
 - Upper: 35 mm.
 - Right: 25 mm.
 - Lower: 20 mm.
 - Left: 25 mm.
 - c) Page numbering: pages should be numbered consecutively and should start on page 2, at the bottom and centered.
 - d) Line numbering in the description and in the claims, on the left side: restart on each page and interval of 5.
2. Paragraph and source:
 - a) Typeface: Arial 11. In the case of translation of claims of European patent applications or European patent prospectus, the font shall be Arial 9.
 - b) Line spacing: 1.5. In the case of translations of claims of European patent applications or European patent prospectus, the line spacing shall be one space.
 - c) Spacing: a blank line between paragraphs.
 - d) Indentation between paragraphs should not be used. However, if groups or subgroups a), b), c), etc. are listed, indents and tabs are allowed.
3. Content of the documents:
 - a) Each part of the application shall begin on a new page with the words DESCRIPTION, CLAIMS (centered, capitalized and bold) and, if any, DRAWINGS AND LIST OF SEQUENCES, SUMMARY.
 - b) The claims shall be numbered consecutively in Arabic numerals.
 - c) The sheets of the drawings shall not contain a frame around their useful surface or around the surface used.
 - d) The drawings must be executed in lines and strokes, black or colored, and well delimited.
 - e) The cuts shall be indicated by oblique lines that do not prevent easy reading of the reference signs and guide lines.
 - f) The scale of the drawings and the clarity of their graphic execution shall be such that a photographic reproduction made with linear reduction to two thirds allows all the details to be distinguished without difficulty. When, in exceptional cases, the scale of a drawing is shown, it shall be presented graphically.
 - g) All figures, letters and reference signs in drawings must be simple and clear. Parentheses, circles or quotation marks may not be used in combination with figures and letters.
 - h) All the lines of the drawings should, as far as possible, be drawn with the aid of technical drawing instruments.
 - i) The elements of the same figure must keep the adequate proportion between them, unless a difference in proportion is indispensable for the clarity of the figure.
 - j) The same sheet of the drawings may contain several figures, although all of them must have the same orientation, vertical or horizontal. When some figures drawn on several sheets are intended to constitute a single figure of the set of them, they must be arranged in such a way that the figure of the set can be composed without any part of the figures located on the different sheets being hidden.
 - k) The different figures should be arranged, preferably vertically, on one or more sheets, clearly separated from each other, but without missing spaces; when the figures are arranged vertically, they should be clearly separated from each other, but without missing spaces; when the figures are arranged vertically, they should be clearly separated from each other.

figures are not arranged vertically, they should be presented horizontally, with the upper part of the figures on the left side of the sheet.

l) Figures should be numbered consecutively in Arabic numerals, regardless of the numbering of the sheets.

m) Reference signs may be used for drawings only if they appear in the description and in the claims and vice versa. The reference signs of the same elements must be identical throughout the application.

n) Drawings must not contain any text, except for brief necessary indications, such as "water", "steam", "open", "closed", "cut according to AB" and, in the case of electrical circuit diagrams, schematic installation diagrams and diagrams schematizing the stages of a process, the key words essential for their understanding. These words must be placed in such a way that they can be replaced by their possible translation without obscuring any line of the drawings.

ñ) Formalities in relation to lists of amino acid sequences and nucleic acids: the ST standards published by WIPO in this regard shall apply.

o) The units of weight and measure shall be expressed according to the metric system; if another system is used, they shall also be expressed according to the metric system. Temperatures shall be expressed in degrees Celsius; if another system is used, they shall also be expressed in degrees Celsius. For other physical units, the units of international practice should be used; for mathematical formulae, the symbols in general use, and for chemical formulae, the symbols, atomic weights and molecular formulae in common use.

p) The terminology and signs of the patent application must be uniform.

q) The sheets must not contain corrections, erasures or interlineations.