Information on Inventions and Patents

- What is an invention? [1]
  The invention is a technical solution to a problem through technical features.

  Title of protection of invention in the Republic of Moldova is the patent for invention, according to Law No. 50-XVI of 7 March 2008 on the Protection of Inventions, and according to art. 4 of the Law, inventions shall be protected by the following means:

  - patent for invention;
  - short-term patent for invention;
  - supplementary protection certificate.

  The **patent for invention** is a title of protection that confers on the holder the exclusive right to exploit the invention for a period of 20 years.

  The short-term patent for invention is a title of protection that confers upon the holder the exclusive right to exploit the invention for a period of 6 years with the possibility of extending the term of validity for a period of at most 4 years.

  The owner of a patent with effects in the Republic of Moldova, the subject-matter of which is a medicinal product or a phytopharmaceutical product (basic patent), for which an authorization for marketing the product has been issued, shall avail himself, in accordance with the requirements of this Law and the Regulations, of a **supplementary protection certificate**, hereinafter *certificate*, for those parts of the basic patent which correspond to the authorization. The certificate shall take effect upon expiry of the legal protection term of the basic patent, for a period equal to the period covered between the date of filing of the patent application and the date of issuance of the first authorization minus 5 years, but which may not exceed 5 years.

  The inventions may have as subject-matter:

  - a product – devices, substances, strains of microorganisms, cell cultures of plants or animals, pharmaceuticals and phytopharmaceutical products;
  - a process – an activity that results in manufacturing or modifying a product (technological processes, computer processes, biological or genetic processes, etc.);
  - a method – an activity having a result of qualitative nature (measurement, analysis, regulation, control, computerized methods, algorithm/program-process combinations);
  - the use of a product, process or method – their use as a new destination, provided that it would not obviously result from the known properties of the product, process or method used.

  The patent application shall relate only to one invention or to a group of inventions so linked as to form a single general inventive concept.

  Close [1]

- Is patenting the best way of protection? [1]
  Patenting an invention is not compulsory, once the invention is created, the inventor may opt for one of the ways of protection thereof:

  - publishing (by scientific article);
  - by trade secret *know-how*: not to disclose information on the invention;
  - patenting.

  By publishing the inventor receives moral satisfaction and the article published generates personal nonproprietary rights.

Protection by know-how

Advantages

- does not require registration and payment of legal fees;
- is unlimited in time;

Disadvantages:

- there is a risk of disclosure or “decoding” by reverse engineering of invention;
- does not provide protection of moral rights of the inventor;

Patent is a “contract” between the inventor and the State where:

- the inventor takes the obligation ***to disclose*** to the society his invention, and the state, in turn, gives the inventor by a ***title of protection*****, containing information about that invention**, an **exclusive right** to prevent others from exploiting the invention in order that the inventor may recover the costs related to the creation of the invention and possibly get an income. This right is limited in time and territory.

Functions of a patent

Function of protection – confers upon the holder an exclusive right to exploit the subject-matter of the patented invention;

Function of information – once published, the patent document is made available to the public (becomes part of the prior art).

Close [1]

- Benefits of protection [1]
  Throughout its term of protection, a patent confers on the owner an **exclusive right to exploit** the invention, **to prevent third parties** from performing, without his authorization, on the territory of the Republic of Moldova, the following acts:
  - manufacture, offering for sale, selling, use, importing or stocking for these purposes of the protected product;
  - the using of a process which is the subject-matter of the patent or, where the third party knows, or it is obvious in the circumstances, that the process cannot be used without the consent of the patent owner, offering of the process for use;
  - offering for sale, selling, use, importing or stocking for such purposes of the product obtained directly by a process which is the subject-matter of the patent. Close [1]

- Requirements for patentability of an invention [1]
  An invention in any field of technology may be patented provided that it satisfies the following criteria of patentability:
  - the invention must be **“susceptible of industrial application”**;
  - the invention must be **“new”**;
  - the invention must involve an **“inventive step”**.

  Industrial Application. An invention shall be considered as susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.

  Novelty. An invention shall be considered to be new if it does not form part of the state of the art., which shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the patent application or of the acknowledged priority.

  Inventive Step. An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art. In the case of short-term patents, an invention shall be considered as involving an inventive step if it presents a technical or practical advantage.

  Close [1]

- What shall not be regarded as inventions: [1] <
    - discoveries, scientific theories and mathematical methods;
    - aesthetic creations;
    - schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;
    - presentations of information.

    Close [1]

- In respect of what shall not be granted patents for invention [1]
  Patents shall not be granted in respect of:

    - inventions the publication or exploitation of which would be contrary to "*ordre public*" or morality, including those harmful for human, animal or plant life or health, and which are likely to cause serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by a clause;
    - plant or animal varieties;
    - essentially biological processes for the production of plants or animals; this provision shall not apply to microbiological processes or the products thereof;
    - inventions concerning the human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene;
    - processes for cloning human beings;
    - processes for modifying the germ line genetic identity of human beings;
    - uses of human embryos for industrial or commercial purposes;
    - processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

    Close [1]

- Who can get a patent? [1]
  The right to a patent shall belong to the inventor or his successor in title. Coauthors right shall belong to them in common;

  If more persons have made an invention independently of each other, the right to a patent shall belong to the person whose patent application has the earliest date of priority;

  The right to a patent for an invention made by an employee in the exercise of his duties or specific tasks entrusted to him in writing (service invention) shall belong to the employer, unless otherwise provided by contract.

  Close [1]

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