

# EURASIAN PATENT SYSTEM

*EDITED BY*



*EUROPEAN PATENT ATTORNEYS  
ATTORNEYS AT LAW  
TRADE MARK ATTORNEYS*

Rob Vernout  
The Hague, Munich  
E-mail: [ipmanual@arnold-siedsma.com](mailto:ipmanual@arnold-siedsma.com)  
Website: [www.arnold-siedsma.com](http://www.arnold-siedsma.com)

*IN COOPERATION WITH*

**GORODISSKY**

Moscow, Russia  
E-mail: [pat@gorodissky.ru](mailto:pat@gorodissky.ru)  
Website: [www.gorodissky.com](http://www.gorodissky.com)

## PART 1 PATENTS

### §1.01 SUMMARY

#### **[A] Kinds of Patents**

- Eurasian patents

#### **[B] Duration of Patents**

- 20 years from date of filing

#### **[C] Patentable / Not Patentable**

- An invention must be new, involve an inventive step and be susceptible of industrial application.
- The exceptions of Rule 39 of the PCT apply. Computer programs are not patentable. Projects and plans for structures and buildings and for land development are not patentable. At present in the Patent Regulations, methods for treatment of the human or animal body by surgery or therapy and methods for medical diagnosis are not designated as unpatentable.

**[D] Novelty**

- Absolute novelty is required.
- A grace period of 6 months preceding the filing/priority date applies.

**[E] Filing Requirements and Application Procedure**

- Filing languages: any
- Language of translation: Russian
- Time limit for filing translation: 2 months from filing date (extendible by 2 months upon payment of a fee)
- A patent is granted after substantive examination.

**[F] Specific Aspects of Regional Patents**

- An application for a Eurasian patent covers all Contracting States of the Eurasian Patent Convention, and a Eurasian patent is granted for all these Contracting States together. Unlike a European patent granted by the European Patent Office, a granted Eurasian patent is not validated into a bundle of national patents but is a single patent having unitary legal effect in the territories of all Contracting States. However, a granted Eurasian patent is maintained in respect of each of the Contracting States by paying annual maintenance fees to the Eurasian Patent Office for each of these States.

**[G] Specific Aspects of International Patent Applications (PCT)**

- Time limit for entering regional phase: 31 months from the filing/priority date
- Time limit for filing translation: 33 months from the filing/priority date (extendible by 2 months upon payment of a fee).

**[H] Governmental Websites**

- <https://www.eapo.org>
- <https://www.eapo.org/en/publications/publicat> (Publication Server)
- <https://www.eapo.org/en/?patents=reestr> (Register)

## §1.02 DETAILED INFORMATION

Under the Eurasian patent system, Eurasian patents may be obtained through one procedure from filing to grant, and the geographical coverage of a granted Eurasian patent expands over a number of the Contracting States that were Republics of the former USSR (Soviet Union). A granted Eurasian patent after grant has to be maintained (by the payment of annual fees) in respect of each of the Contracting States for which its validity is desired.

On 25 December 1991, the former USSR (Soviet Union) ceased to exist. The fifteen Republics which together formed the former USSR became independent States. These Republics (States) are in alphabetical order: Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

On 12 March 1993, the Agreement ‘On the Measures on the Protection of Industrial Property and on the Establishment of an Interstate Council for the Protection of Industrial Property’ was signed at Moscow by nine States (namely Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan). This Agreement provided for the preparation and adoption of a Convention establishing a common patent protection system in the member countries. The text of the Convention was prepared in cooperation with the International Bureau of the World Intellectual Property Organization (WIPO). The Eurasian Patent Convention (EAPC) was officially signed at Moscow on 9 September 1994, by Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan and Ukraine. The Convention legally entered into force on 12 August 1995.

The Eurasian Patent Office started accepting new patent applications on 1 January 1996.

The Eurasian Patent Convention is open for joining by any State which is also a member of the United Nations, the Paris Convention and the PCT. The Eurasian Patent Office puts certain efforts in attracting new Member States both from the former USSR Republics and countries of Eastern Europe and Asia.

In 2011, Moldova adopted the law on denunciation of the Eurasian Patent Convention. The denunciation became effective on 26 April 2012. However, the denunciation does not affect the granted Eurasian patents and the Eurasian applications filed before said date. Those patents and applications will remain valid during their full terms as provided for in the Convention. According to the agreement signed between the Eurasian Patent Office and the Patent Office of the Republic of Moldova on 12 April 2012, Moldova recognizes the effect of the Eurasian patents granted for Eurasian applications having the filing date earlier than 26 April 2012, until expiration of their term of validity or until their termination in accordance with the Eurasian Patent Convention.

The following States are at present the Contracting States of the Eurasian Patent Convention, with effect for which a Eurasian patent may be obtained:

Contracting State	As from
Armenia	27 February 1996
Azerbaijan	25 December 1995
Belarus	12 August 1995
Kazakhstan	4 November 1995
Kyrgyzstan	13 January 1996
Russian Federation	27 September 1995
Tajikistan	12 August 1995
Turkmenistan	12 August 1995

There are two countries that signed the Eurasian Patent Convention but have not yet ratified it (Georgia, Ukraine). It is not clear whether these two States will finally join the Convention. Three Baltic States (Estonia, Latvia and Lithuania) in the meanwhile became the European Patent Convention Contracting States and their joining the Eurasian Patent Convention is problematic; Uzbekistan has not even signed the Eurasian Patent Convention yet.

The Eurasian Patent Convention is a special agreement in the sense of Article 19 of the Paris Convention, and a regional patent treaty as meant in Article 45(1) of the PCT. The Convention establishes an intergovernmental organization named the Eurasian Patent Organization, whose headquarters are at Moscow, Russian Federation, and whose official language is Russian. The bodies of this Organization are its Administrative Council, and the Eurasian Patent Office (EAPO). The Administrative Council meets at least once each year; the WIPO is to be represented at the meetings of the Council in an advisory capacity.

An application for a Eurasian patent covers all Contracting States of the Eurasian Patent Convention, and a Eurasian patent is granted for all these Contracting States together. It is not possible to apply for or to obtain a Eurasian patent for only one or some of the Contracting States, and it is not necessary or possible to designate in a Eurasian patent application the States for which it should be valid. A granted Eurasian patent is not to be validated in designated States thereby becoming a bundle of national patents, but remains a single patent having unitary legal effect in the territories of all Contracting States.

After the Eurasian patent has been granted, it may be maintained in all or some of the Contracting States in which patent protection is desired. Maintenance of the granted patent is effected by paying annual fees to the Eurasian Patent Office with respect to the States for which the granted patent shall remain valid.

The Eurasian patent system exists concurrently with the national patent systems of the Contracting States – it is possible to apply for and obtain national patents in each of the Contracting States. Obtaining a Eurasian patent may, however, offer advantages over obtaining a number of national patents in the Contracting States, particularly if protection in all these States or several of them is desired. A Eurasian patent as a single patent being obtained through one procedure in the Russian language and having effect in a number of the Contracting States may be a fast track to select for obtaining regional patent rights even in the States having an official language other than Russian (such as for example Armenia and Azerbaijan).

## **[A] Conventions and Legislation**

### *[1] Conventions*

- Eurasian Patent Convention, signed at Moscow on 9 September 1994, and in force from 12 August 1995;
- Patent Regulations under the Eurasian Patent Convention, in force as from 1 December 1995, with the last amendments of 11–13 November 2014;
- Administrative Regulations to the Eurasian Patent Convention, in force as from 1 December 1995, with the last amendments of 11–13 November 2014; and
- The Statute of Fees Charged by the Eurasian Patent Organization, with the last amendments of 11–13 November 2014.

### *[2] Laws*

- Not applicable in this jurisdiction.

**[B] Kinds of Patents**

- Eurasian patents.

**[C] Duration of Patents**

Twenty years from the date of filing of the application, subject to the payment of annual fees.

*[1] Patent term extension / Supplementary protection certificate*

The validity term for patents related to, amongst others, pharmaceuticals, for the use of which a special approval is required by law may be extended. Such extension of the patent term is available in all Contracting States except Tajikistan. See for details the respective national chapters.

**[D] Requirements for Renewal**

After grant of the Eurasian patent, annual maintenance fees must be paid in respect of each of the Contracting States for which the patent should remain effective. The annual maintenance fees must be paid before or on the anniversary of the filing date (international filing date for PCT applications) of the Eurasian patent application. The amount of the annual fees to be paid is equal to the aggregate sum of annual fees for the maintenance of the Eurasian patent in the Contracting States for the corresponding year. The annual maintenance fees must be paid to the Eurasian Patent Office, which then distributes to all Contracting States, for which the fees were paid, their shares (part of the annual maintenance fees paid remains for the Eurasian Patent Organization). Each Contracting State establishes the amounts of annual fees and determines from which year annual fees are to be paid. Where a Eurasian patent was granted after the beginning of the year on which the first annual maintenance fee is payable in respect of a Contracting Party, the amount actually due shall include the fees for the coming year and the fees for all preceding years. Where the period between the patent grant date and the date on which the annual fee falls due is less than two months, the maintenance fee may be paid within a period of two months from the anniversary of the filing date of the Eurasian application.

There is a grace period of six months for paying the annual maintenance fees for each Contracting State concerned; for payment during this six-month grace period, there is a surcharge to be paid of 50% of the fee(s) due. As to the possibility of restoration after failure to pay the maintenance fee within the grace period, see ‘Restoration after unintentional lapse’.

With payment of the annual fees, the owner of the patent indicates the Contracting States where the granted patent will remain valid. The Eurasian patent loses its effect with respect to the Contracting State for which the fees have not been paid.

**[E] Patentable / Not Patentable**

The subject matter of an invention may be an apparatus, a method, a substance, a microorganism strain, a strain of plant and animal cells, and furthermore the use of an apparatus, method, substance or strain.

A patentable invention must be novel, involve inventive step and be susceptible of industrial application. A novel invention shall not be known from the state of the art. An invention involving inventive step is not to be obvious to a person skilled in the art. An invention is susceptible of industrial application if it can be used in industry, agriculture, public health or other fields of human activity.

The following are not considered inventions and, therefore, cannot be patented:

- (1) Discoveries.
  - (2) Scientific theories and mathematical methods.
  - (3) Pure providing of information.
  - (4) Methods of economic organization and management.
  - (5) Symbols, schedules and rules.
  - (6) Methods for performing mental acts.
  - (7) Algorithms and computer programs.
  - (8) Topographies of integrated circuits.
  - (9) Projects and plans for structures and buildings and for land development.
  - (10) Solutions concerning only the outer appearance of manufactured goods and intended to satisfy aesthetic requirements.
- Furthermore, patents are not granted for:
- (11) Plant varieties and animal breeds.
  - (12) Inventions the commercial use of which is to be prevented to protect public order or morality.

#### *[1] Chemical compositions*

Chemical products may be patented.

#### *[2] Pharmaceuticals*

Pharmaceutical products may be patented.

#### *[3] Second use*

Both first and second use may be patentable. The use of a device, method, substance or a biotechnology product is understood to be in using it for any purpose. If the invention is the use of a known device, method, substance or biotechnology product for a purpose previously unknown for it, then the claims should contain features necessary to identify the known device, method, substances or biotechnology products, and an indication that the subject matter of the invention is the use of a known device, method, substance or product of biotechnology for new (first, if the sphere of use of the known substance was not known) purpose. The following structure of claims is possible: ‘Use of device/method/substance/product X as.../for.../in the manufacture of [the purpose of the object]’.

#### *[4] Treatment of the human body*

The Eurasian Patent System allows obtaining patents for methods for treatment of the human or animal body by surgery or therapy and methods for medical diagnosis.

#### *[5] Biological materials*

Microbiological methods, microorganism strains and strains of plant and animal cells may be patented.

Gene sequences may be patented.

*[6] Plant varieties*

Plant varieties cannot be patented.

*[7] Software-related inventions*

Computer-related inventions (inventions involving the use of a computer program) may be patented.

*[8] Business methods*

Methods of economic organization and management cannot be patented.

*[9] Immoral inventions or inventions contrary to public order*

Inventions the commercial use of which is to be prevented to protect public order or morality cannot be patented.

*[10] Semiconductors*

Topographies of integrated circuits cannot be patented.

**[F] Novelty**

An invention shall not be known from the state of the art on the invention priority date. The state of the art consists of any kind of information available to the public anywhere in the world before the priority date (i.e., absolute worldwide novelty is required). The state of the art is also deemed to comprise the contents of any Eurasian patent application having an earlier filing date or priority date but being not published yet, provided that this application or the Eurasian patent granted thereon is subsequently published. The contents of a PCT international application designating the Eurasian Patent Office having an earlier filing or priority date forms the prior art only if this PCT application enters the Eurasian regional phase. Such earlier applications are forming the prior art only for the purpose of determining the novelty, but not for determining the inventive step.

Prior rights arising from unpublished applications in any of the Contracting States may have an adverse effect over Eurasian applications with later priorities; similarly, prior rights arising from Eurasian patents have same effect over Contracting States patents with later priorities. This provision does not relate to examination, however, since the Eurasian Patent Office does not consider (and even has no access to) unpublished Contracting States applications when examining its own application.

*[1] Grace period*

The disclosure of information relating to the invention made during the six months preceding the filing date or priority date is not a bar to novelty, only if such disclosure has been made by the inventor, applicant or a person who obtained the information directly or indirectly from them.

**[G] Ownership and related rights***[1] Applicant*

The inventor or his successor in title (e.g., an assignee), the joint inventors or their successor(s) in title irrespective of nationality or domicile may apply for a Eurasian patent. If two or more inventors have made the same invention independently, the right to a Eurasian patent will belong to the inventor (or his successor in title) whose Eurasian patent application has the earliest filing or priority date. If during the substantive examination of applications by the Eurasian Patent Office it is established that identical inventions have the same filing date or the same priority date, only one Eurasian patent may be granted based on agreement between the applicants; if the applicants do not reach an agreement no Eurasian patent is granted.

If there are two or more owners of the same Eurasian patent, their rights with regard to the use of the patented invention will be governed by the provisions of the national legislation of the Contracting States concerned.

In the case of an invention made by an employee, the right to a Eurasian patent is to be determined in accordance with the law of the State where the employee is mainly employed and if that State cannot be determined, in accordance with the law of the State in which the employer has a place of doing business.

*[2] Assignment*

A Eurasian patent application as well as a granted patent can be assigned only for all the Contracting States of the Eurasian Patent Convention. Assignment must be in writing in order to be valid and must be registered in the Register of Eurasian Patents in order to be effective.

Requirements for registration:

- (1) Assignment deed, signed by assignor and assignee.
- (2) Power of attorney signed by assignee.
- (3) Payment of the required fee.

Neither notarization nor legalization is required.

Information of the registered assignment will be published in the Gazette of the Eurasian Patent Office.

*[3] Licenses*

Licence agreements for a Eurasian patent may be concluded. Licence agreements relating to a Eurasian patent must be registered in accordance with the national law of the Contracting States in which the Eurasian patent has effect. Every calendar quarter the national offices of the Contracting States must inform the Eurasian Patent Office of all registered licence agreements relating to Eurasian patents, and the Eurasian Patent Office will enter the particulars of these licence agreements in the Register of Eurasian Patents, and will publish same in its Gazette.

According to the Eurasian Patent Convention, compulsory licences for the use of a Eurasian patent by third parties may be granted in conformity with the Paris Convention by the competent authority in the Contracting States where the Eurasian patent is valid. A compulsory licence will (only) be effective in the State where it is granted. A decision to grant a compulsory licence may be contested before the courts or other competent authorities of the Contracting State in which the licence was granted.

The relations between the owners of Eurasian patents which are dependent (in situations where a patented invention cannot be worked without infringing another invention covered



by a patent with an earlier priority) are governed by the national legislation of the Contracting State(s) concerned.

#### *[4] Pledge and Seizure*

The right to a Eurasian application or Eurasian patent may be pledged in relation to the Contracting State whose legislation provides for the pledging of the right to an application or a patent. The Eurasian Patent Office registers the pledging of the right to the Eurasian application or Eurasian patent. The pledge agreement for a Eurasian application or patent shall be in writing and signed by the parties. The Eurasian Patent Office shall publish information on the registration of the pledge.

### **[H] Filing Requirements**

All documents of the application must be on sheets of flexible, strong, white, smooth, non-shiny and durable paper of A4 international size. The minimum margins to be observed in the sheets containing the request, description, claims and abstract are: top 2 cm, left side 2.5 cm, right side 2 cm, and bottom 2 cm. Each part of the application (request, description, claims, abstract, drawings) must begin on a new sheet. All sheets of each part of the application, beginning with the second sheet, must be numbered in consecutive Arabic numerals. The text matter in the request, description, claims and abstract must be typewritten or printed in black, 1.5 spaced, in characters the capital letters of which must be at least 2.1 mm high. Graphic symbols, Latin names, letters from the Greek and Latin alphabets, and mathematical or chemical formulae may be inserted by hand in India ink or black fountain-pen or ballpoint-pen ink; in one and the same formula combinations of typewritten or printed and handwritten matter is not allowed.

All parts of the application must be presented in such manner as to allow long-term storage and direct reproduction in any number of copies. Only one side of each of the application sheets shall be used. All the sheets must be free from creases and cracks.

#### *[1] Obligation to file first with national office*

Applications for the grant of a Eurasian patent are to be filed with the Eurasian Patent Office; however, applicants from the Contracting States requiring first national filing must file the Eurasian applications with their National Patent Offices. Eurasian applications filed with the National Patent Offices of the Contracting States have the same effect as applications directly filed with the Eurasian Patent Office. A Eurasian application filed with the National Patent Office of the Contracting State has to be in four copies comparing to three if it is filed directly with the Eurasian Patent Office.

#### *[2] Minimum requirements for obtaining filing date / Provisional applications*

A Eurasian patent application receives the filing date if at least the following have been submitted: statement to the effect that the application is filed as a Eurasian patent application, contact information about the applicant, and a part which on the face of it appears to be a description of invention in any language. Where the Eurasian application does not satisfy these requirements, the national or Eurasian Office shall promptly notify the applicant accordingly and shall propose that the missing documents (information) be supplied within four months from the date of such notification. Where the applicant does not supply the requested documents (information) within the prescribed period, the Eurasian application shall be regarded as not

to have been filed. Where the prescribed requirements are not complied at the same time, the filing date of the Eurasian application shall be accorded as the date on which the last required document (information) is received by the national or Eurasian Office.

Where, in establishing the filing date, the national or Eurasian Office finds that a part of the description appears to be missing from the application, or that the application refers to a drawing which appears to be missing from the application, the Office shall promptly notify the applicant accordingly giving an opportunity to submit the missing parts within four months from the date of the notification. Where the applicant submits the missing elements within the prescribed time limit, they shall be included in the Eurasian application. The date on which the national or Eurasian Office receives these elements shall be considered to be the date of receipt of the description or drawing.

For the purposes of the filing date of the Eurasian application, a reference, in Russian language, to a previously filed application shall replace the description. The reference shall contain the number of that earlier application, the Office with which that application was filed, and its filing date. Where the earlier application was filed by another person, a document confirming the applicant's succession in title shall be submitted along with the reference. Where the reference to the previously filed application has been made, the applicant shall, within four months of the date on which the national or Eurasian Office receives the Eurasian application containing such a reference, furnish a certified copy of that earlier application. Where the earlier application is in a language other than Russian, a translation thereof shall also be furnished within the same time limit.

### *[3] Request for grant*

Request for grant to be executed on the prescribed printed form in Russian language in triplicate, to be completed and signed by the applicant or his representative (the surname(s) and initials of the person(s) signing the request must be mentioned); containing statement that the application is filed according to the Eurasian Patent Convention; further containing: full name and address of applicant and of the representative; title of the invention; full name and address of the inventor; and, where applicable, priority claim.

### *[4] Appointment of Representative*

Applicants not residing or established in a Contracting State of the Eurasian Patent Convention must appoint a Eurasian patent attorney as their representative.

### *[5] Power of Attorney / Designation of inventor / Other documents*

If the representative is a Eurasian patent attorney, the power of attorney does not need to be filed, except for cases where filing of a power of attorney is mandatory. Otherwise, a power of attorney is to be signed by the applicant, no legalization or notarization required, and should generally be submitted within two months from filing. General power of attorney valid for all Eurasian applications of the same applicant can also be used.

The inventor shall be mentioned in the application and patent, unless the inventor requests to avoid such mentioning.

### *[6] Priority*

Convention priority may be claimed from applications filed in or for a country party to the Paris Convention. Priority must be claimed when filing the Eurasian application or within

three months from filing. When priority is claimed, the date, country and number of the application(s) whose priority is claimed must be mentioned; if an application whose priority is claimed is a regional or international application, the Office with which it was filed and the State(s) for which it was filed must be mentioned. If the priority application number is yet unknown when the Eurasian application is filed, it must be given within three months from the date of filing the Eurasian application. Within sixteen months from the priority date a copy of the application(s) whose priority is claimed, certified by the Office with which it was (or they were) filed, must be filed with the Eurasian Patent Office. The Eurasian Patent Office, however, may allow, at the applicant's request filed before expiry of this sixteen-month period, a later presentation of the copy, provided the copy was requested by the applicant within fourteen months from the priority date. A translation into Russian of the priority document may be required by the Eurasian Patent Office where the validity of the priority claim is relevant to the determination of patentability of the invention concerned. This translation should be filed, upon invitation by the Eurasian Patent Office, within four months from the date of that invitation and does not need to be certified. If the application from which priority is claimed was filed in the name of a person other than the applicant of the Eurasian application, an assignment of priority rights must be filed on filing the Eurasian application or within three months thereafter in order to confirm the right for priority.

**Priority term:** The Eurasian application in which priority of an earlier Convention application is claimed must be filed within twelve months from the application whose priority is to be claimed.

**Internal priority:** For a Eurasian patent application, priority may also be claimed from an earlier Eurasian patent application, regardless whether it was filed with the Eurasian Patent Office or with any National Office of a Contracting State, provided that the later application claiming such priority is filed within twelve months from the date on which the earlier application was filed. If such internal priority is claimed the earlier application will be considered withdrawn. Internal priority cannot be claimed based on an application for which an earlier priority has already been claimed.

Multiple priorities are allowed. Priority may be claimed from more than one application also where the applications whose priority is claimed were filed in different States. If priority is claimed from more than one earlier application, time limits whose beginning is determined by the priority date shall be calculated from the earliest priority date. The priority right extends only to the features of the claimed invention which were comprised in the application(s) whose priority is claimed. On the other hand, if certain features of the invention for which priority is claimed are not contained in the claims of the earlier application, it will be sufficient if they are mentioned in other elements of the earlier application.

As to the possibility of restoring priority right, see 'Restoration after unintentional lapse'.

#### *[7] Allowable language(s) upon filing / Language(s) of procedure*

The language of the proceedings before the Eurasian Patent Office is Russian. However, the documents of a Eurasian patent application (except the request form) may first be filed in any language other than Russian, provided that a Russian translation thereof is filed within two months from the filing date of the application or, with payment of the required additional fee, within a further two-month period, failing which the application is considered withdrawn. Such translation does not need to be certified.

#### *[8] Description*

Specification must disclose the invention in a sufficiently clear and complete manner so as to enable the invention to be implemented by a person skilled in the art. The specification must contain the following:

- Title of the invention as appearing in the request for grant. The title must state the purpose of the invention; the title must correspond to the subject of the invention. The title must be clear and short and may not contain any fanciful denomination. The title must be in the singular, with the exception of those terms used only in plural or when it refers to a group of chemical compounds covered by a general structural formula.
- Definition of the technical field to which the invention relates. In this part, the field of use of the invention must be specified. If there are a number of such fields, only the main fields are to be specified.
- Definition of the background art. This part shall contain information regarding similar solutions known to applicant, preferably mentioning the solution which is the closest to the claimed invention.
- Disclosure of the invention. This part must be written in such manner as to facilitate the understanding of the technical problem to be solved by the claimed invention. Applicant must specify the technical result that can be obtained by carrying out the invention, and the advantages of the invention over the background art.
- List of the drawings and other material (if any). This part must also contain a brief description of the drawings. If material disclosing the subject matter of the invention other than drawings is submitted, the contents thereof must be briefly described in this part.
- Information supporting the possibility to carry out the invention. In this part, it must be explained how the technical result can be obtained, if this is not already apparent from the subject matter of the invention.

In case of an application relating to a microorganism strain or a method involving the use thereof, which cannot be described in the application in such manner as to enable the invention to be executed by a person skilled in the art and which is not accessible for the public, a deposit of the strain concerned must be made before or on the filing or priority date with a depositary institution having the status of International Depositary Authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 1977. (For the institutions having the status of International Depositary Authority under the Budapest Treaty, see Part II, International Laws and Regulations, International Conventions, Budapest Treaty.) The Administrative Council of the Eurasian Patent Organization may recognize other depositary institutions. The application must contain evidence of the depositing of the strain.

If the Eurasian patent application contains a sequence of nucleotides and/or amino acids, the specification should also contain this sequence provided on a machine-readable media according to the prescribed procedure.

### *[9] Claims*

The claims must define the subject matter for which protection is sought. The claims must be clear and concise and must be fully supported by the specification. The number of claims must be reasonable taking into consideration the nature of the invention claimed. If there is more than one claim, the claims must be numbered consecutively by Arabic numerals. Each claim must consist of one sentence, generally comprising an introductory (pre-characterizing) part and a characterizing part. In the introductory part, the technical features of the invention that are in common with the closest prior art shall be given including the generic concept reflecting the intended purpose of the invention. In the characterizing part, which is to be preceded by the words ‘characterized in that’, ‘characterized by’, ‘wherein the improvement comprises’ or the like, the technical features distinguishing the claimed invention from the closest prior art shall be given. The claims may be drafted without separation into two parts if they characterize individual chemical compositions; strains of microorganisms, or culture cells of plants and animals; the use for a new purpose of an apparatus, method, substance or strain already known;

or an invention for which there are no prior art solutions. Claims shall not (except if absolutely necessary) refer to the specification or drawings, e.g., in a manner like ‘as described in part... of the specification’, or ‘as illustrated in figure... of the drawings’. If the application contains drawings, the technical features mentioned in the claims must preferably be followed by reference signs in brackets relating to such features if that provides for better understanding of the invention.

Claims may be independent or dependent.

An independent claim must relate to one invention only. An application may contain two or more independent claims of the same category (apparatus, method, substance, microorganism strain or the use thereof) if it cannot be readily covered by a single general claim.

A group of inventions forming a single inventive concept is formed by inventions relating to the same category (apparatus, method, substance, strain) and/or by inventions relating to different categories. If a group of inventions is claimed, the unity requirement is met only if there is a technical relationship between these inventions expressed by one or several same or corresponding technical features which define a contribution made over the prior art by each of the claimed inventions. Subject to the foregoing, one and the same application may contain claims relating to different categories, and in particular may contain the following:

- an independent claim for an apparatus, substance or microorganism strain, an independent claim for a method specially adapted for making the apparatus or obtaining the substance or strain, and an independent claim relating to the use of said apparatus, substance or strain;
- an independent claim for a method and an independent claim for an apparatus specially adapted for carrying out the method;
- an independent claim relating to an apparatus, substance or microorganism strain, an independent claim relating to a method specially adapted for making the apparatus or obtaining the substance or strain, and an independent claim for an apparatus specially adapted for carrying out the method.

A dependent claim must specify the features which constitute development or precise the features of the invention of the corresponding independent claim thus defining the invention in particular implementations. The Eurasian application may contain a reasonable number of dependent claims disclosing specific features of the invention described in the independent claim, even if those features could themselves constitute an independent invention. All dependent claims relating to the same preceding independent claim should be grouped together.

Multiple dependency of claims is allowed.

Additional claims fees are due for each claim exceeding five claims.

### *[10] Abstract*

The abstract must be as concise as the disclosure allows, and should not exceed 150 words. The abstract must contain a summary of the disclosure contained in the description, claims and drawings. This summary must specify the technical field to which the invention belongs and/or its main field of use, and the gist of the invention mentioning the technical result obtained. The abstract must be accompanied by at least one drawing. Each essential feature contained in the abstract and illustrated by the drawing must be accompanied by a reference numeral in brackets. Where applicable the abstract must contain the chemical formula which, of all formulae contained in the application, best characterizes the invention. The abstract serves only for the purpose of technical information and is not taken into consideration for any other purpose, and in particular not for the interpretation of the scope of protection sought.

*[11] Drawings*

The drawings must be made in black, indelible, well-defined lines and strokes without colouring or shading on sheets of strong, white, smooth, non-shiny and durable paper of A4 international size. The scale and clarity of the drawings must be such that all details can be distinguished without difficulty after linear reduction in size to two-thirds. Brackets, circles or inverted commas may not be used in association with numbers and letters. Numbers and letters in the drawings must be at least 3.2 mm high. The drawings may not contain text matter, except, where this is indispensable, for a single word or words such as 'water', 'steam', 'open', 'closed', 'section on AB', or the like. No dimensions are to be given in the drawings; where necessary, the dimensions must be given in the specification. Reference numerals not mentioned in the specification shall not appear in the drawings, and vice versa.

Explanatory material other than drawings must be presented in the form of graphic material (e.g., diagrams, graphs, blueprints, sketches, oscillograms, etc.), photographs, tables or diagrams. Sketches can be submitted only if it is impossible to illustrate the specification by drawings or diagrams. Photographs can be submitted only to complement other graphic material.

The graphic material must be numbered in Arabic numerals corresponding to those in the specification.

*[12] Payment of fees*

The required fees are the unitary procedural fee for filing, novelty search, publication of application and others (no separate filing fee is provided). The document configuring payment of the unitary procedural fee shall be submitted at the same time as the Eurasian application. This document may, together with proof of payment of the required surcharge of 20%, still be submitted within two months from filing. If said document is not filed in time, the application will be considered withdrawn.

In case of a Eurasian application from a Contracting State which is filed with the National Patent Office of the Contracting State, the time limit for filing the proof of payment of the unitary procedural fee is three months from mailing to the applicant a notification by the National Patent Office regarding transmittal of the Eurasian application to the Eurasian Patent Office.

**[I] Application Procedure**

The time limits allowed to applicant by the Eurasian Patent Office may not be less than two months and not be more than four months. In individual cases, the time limits may be extended upon request made before their expiration or within two months after their expiration together with payment of the required extension fee for each month of extension.

*[1] Filing Authority*

The patent authority of the Eurasian Patent Organization is the Eurasian Patent Office located in Moscow, Russian Federation.

*[2] Online filing*

Online filing of Eurasian applications is possible for Eurasian patent attorneys through the ADEPT EAPO system.



*[3] Formal examination*

The Eurasian Patent Office examines the application for its correspondence to the formal requirements within two months from the filing date of the application or, if the application was originally filed in a language other than Russian, within two months from submitting the Russian language translation of the application, provided the required fees have been paid in due time. During the formal examination, it will be examined whether all required documents have been filed and are in compliance with the requirements, whether the invention is correctly classified according to the International Patent Classification, whether the priority claim(s) made (if any) is (are) statutory and whether or not the invention relates to subject matter which is unpatentable. The Office may invite the applicant to make corrections or amendments within a prescribed term, in which case the period for formal examination will be extended correspondingly.

If an application for a Eurasian patent is filed with the National Patent Office of a Contracting State, that Office shall examine whether the minimum requirements for obtaining a filing date have been complied with, whether the documents are filed in the required number of copies, and whether the materials indicated in the request for grant as appended have been actually submitted. If the application is found to comply with these requirements, the National Patent Office transmits the application to the Eurasian Patent Office for further prosecution within four months from the filing date or, if Convention priority is claimed, within one month from the filing date. If the requirements for obtaining the filing date are not met, the National Patent Office requests furnishing of the missing documents or information, and if those are not furnished the application shall be deemed as not filed; if these documents or information are submitted, the date of their receipt is considered to be the filing date. The National Patent Office shall notify the applicant of the transmittal of the application and of the requirement to pay the single procedural fee and additional fees (if any) to the Eurasian Patent Office. The Eurasian Patent Office then conducts formal examination for the received application, provided the required fees have been paid.

When the application has been accepted for further prosecution, the applicant is informed of the filing date assigned to the application.

*[4] Search*

A novelty search is carried out automatically for each Eurasian patent application that has been accepted for further prosecution. The search is to be carried out on the basis of the claims, taking into consideration the specification and drawings (if any). If during the patent search it is revealed that the requirement of unity of invention is not met, the applicant may be invited within three months from sending of the notification to communicate a decision which invention(s) shall be searched. If the applicant has not replied in time to the notification concerning non-compliance with the requirement of unity of invention, the search is carried out in respect of the invention (or group of inventions meeting the unity requirement) mentioned first in the claims. The novelty search is carried out by Rospatent (the Russian Patent Office) in the Russian Federation, on the basis of the agreement with the Eurasian Patent Office.

The search is mainly carried out on the basis of the following sources of information:

- the published patent and application specifications of the United States, Germany, Japan (the abstracts in Russian and English), the United Kingdom, France, Switzerland, Australia, Austria and Canada (for the last three countries only in respect of the documents issued after 1979);
- the patent documents of the European Patent Office and the World Intellectual Property Organization;
- patent specifications of the Russian Federation and the former USSR (Soviet Union) of both patents and utility models;

- the patent applications filed with the Russian Patent Office and accessible for the general public;
- materials from international scientific and technical publications according to a list recommended and published by the International Bureau of the WIPO for at least five years.

The results of the search are summarized in the search report, which is sent to applicant as soon as it has been completed; at the request of applicant and upon payment of the required fee copies of the cited documents can be provided. The search report is published with the application or separately after the application has been published.

*[5] Obligation to submit prior art, corresponding foreign search results and/or application numbers*

Not required.

*[6] Substantive examination*

All Eurasian patent applications are subject to substantive examination for compliance of inventions claimed therein with the conditions of patentability. This substantive examination does not start automatically but is triggered by a request of the applicant. The examination request must be made and the examination fee paid before expiration of six months from the date of publication of the search report. This implies that if the search report is published together with the application, the examination request must be made before expiration of six months from publication of the application, but if the search report is published separately, the examination request is to be made before expiration of six months from the date of later publication of the search report. The examination request may still be filed within two months after expiration of said six-month period, but only if there are legitimate reasons for the delay, and provided that applicant provides evidence of these reasons and pays the required additional fee. If the examination is not requested in time, the application will be considered withdrawn. During substantive examination, the applicant may receive Office actions. An issued Office action shall be responded to within four months from the date of its sending; this term may be extended upon request and payment of a fee to be made before expiration of this term. If a term for responding to an Office action is not observed, the application shall be considered withdrawn. The applicant may request copies of the documents cited during examination, and if such copies have been requested by the applicant within three months from the date of sending of the Office action, the term for the applicant's reply will start from the date of sending the copies to the applicant.

Examination ends by issuance of a decision on grant of the patent or on refusal of patent grant, based on the results of the substantive examination and made by a board of three examiners.

*[7] Accelerated examination / grant*

As of 1 June 2016, at the applicant's request and subject to the payment of a fee, the Eurasian Patent Office conducts:

- accelerated formal examination within five days or within ten days;
- accelerated substantive examination (first office action will be issued within three months);
- accelerated publication and grant of a Eurasian patent (within fourteen days after the grant decision or the request for acceleration, whichever period expires later).



Furthermore, the Eurasian Patent Office has a PPH MOTTAINAI agreement with the Chinese Patent Office, the European Patent Office, the Japan Patent Office and the Korean Intellectual Property Office and a PCT-PPH agreement with the European Patent Office, the Japan Patent Office and the Korean Intellectual Property Office.

Further, as from 1 July 2016, the applicant of a PCT application which entered the Eurasian regional phase can, after he has filed a request for substantive examination and before he has received a first office action, request accelerated substantive examination, provided that:

- in respect of the corresponding PCT application it was determined by one of the following International Searching Authorities (ISA) / International Preliminary Examining Authorities (IPEA) - European Patent Office, Japan Patent Office, Korean Intellectual Property Office, Russian Patent Office or US Patent and Trademark Office - that at least one independent claim meets the patentability requirements; and
- the claims in the Eurasian patent application are sufficiently in conformity with one or more of said claims in the PCT application determined by the ISA / IPEA as patentable.

No other PPH agreements are applicable.

On 24 April 2020 the Memorandum of Understanding on the Patent Prosecution Highway Pilot Program between the Eurasian Patent Office and the Finnish Patent and Registration Office came into force. The launch of the PPH Pilot Program is scheduled for the second half of 2020.

#### *[8] Amendments and corrections*

The applicant may amend the claims during the whole time of application pendency before receiving the Decision on Patent Grant or on Refusal of Patent Grant.

Any amendments or additional materials which modify the subject matter of the claimed invention disclosed in the application (i.e., containing features for including into the claims but absent in the application as filed originally) shall not be taken into consideration for the examination of the application.

The applicant may request the Eurasian Patent Office to correct clerical or obvious errors in a granted Eurasian patent. If the error is attributable to the applicant, a fee must be paid. Information on the corrections made in a Eurasian patent is published in the Gazette.

#### *[9] Third party observations*

Not applicable in this jurisdiction.

#### *[10] Grant*

If it is found that a patent may be granted, the applicant is notified by an intermediate document which is the Notification on Readiness to Grant. In case the applicant wishes no further amendments to be introduced, the fees for grant and publication of grant shall be paid within four months from the date of sending of this Notification. Instead of paying the grant fees, the applicant within the same four-month term can submit further amendments and then the examination shall be continued. In case neither amendments are submitted nor the grant fees are paid within said four-month term, the application is deemed to be withdrawn (the grant fees may be paid with an additional fee, during two months following the expired four months).

Grant fees are paid together with publication fees and if the number of sheets relating to the application exceeds thirty-five sheets, an additional publication fee must be paid for each sheet over thirty-five sheets; if this additional publication fee is not paid in due time or is not

paid in the correct amount in due time, this additional fee (or the missing part of it) may still be paid, with surcharge (at present 25%), within three months from the date of sending of an invitation to that effect by the Eurasian Patent Office. If the additional publication fee is also not paid (with the surcharge) during said three-month period, the application will be considered withdrawn.

If the grant fees are paid in time the patent will be granted and registered in the Register of Eurasian Patents, and a patent certificate will be issued to the applicant. No printed description of the invention will be attached to the certificate. The Eurasian patent description on paper is available at the patentee's request and upon payment of the prescribed fee. There is a QR-code in the patent certificate which leads to the description and other information about the patent on the EAPO web portal. Within six months from the date of registration of the Eurasian patent, the particulars of the grant are published in the Gazette of the Eurasian Patent Office; at the same time the Office shall publish the description, claims, and drawings and other material. The date of grant of the patent is the date of publication of the particulars of the grant in the Gazette.

The application for the grant of a Eurasian patent automatically covers all the Contracting States, and the Eurasian patent is granted with respect to all these States. After grant, no validation or registration of the Eurasian patent in the Contracting States is required. Nor is a translation required of any part of the granted Eurasian patent in those States where the official language is other than Russian. However, in infringement proceedings or in proceedings concerning the validity of the patent, national courts or other competent authorities of a Contracting State may require furnishing of a translation of the patent into the official language of that State.

The average processing time from filing to grant is three to four years.

### *[11] Opposition / Re-examination*

During a period of six months from the publication of the particulars of the granted Eurasian patent in the Gazette, any person other than the patentee may file with the Eurasian Patent Office a Notice of Opposition against the grant of the patent (opposition-after-grant). In opposition proceedings, the patent may be considered partly or totally invalid on the ground that the invention does not meet the conditions of patentability, or on the ground that the claims of the patent contain features which were absent in the application materials as originally filed. The Notice of Opposition must contain the explanation of any of the above-mentioned reasons why the patent grant cannot take place. Filing the opposition is accompanied by payment of a fee. The Regulations prescribe that the Notice of Opposition shall be considered within six months from the date it has been received.

In the Administrative Revocation procedure on opposition, the Eurasian Patent Office may decide to revoke the patent, to allow amending or correcting the patent, or to reject the Notice of Opposition. If the Office proposes an amendment of the claims, description and drawings, the Office will decide to maintain the patent as amended if the owner of the patent agrees with such amendment and pays the required fee for the publication of the new specification of the patent as amended within the prescribed term (failure to pay the required fee within the prescribed time limit in such case causes revocation of the patent). The new letters patent containing the description, claims and drawings as amended shall be published by the Eurasian Patent Office at the same time as the decision on the opposition is published in the Gazette. If a Eurasian patent has been revoked, it is considered void in all Contracting States from the date of publication of the particulars of the grant of the patent.

A re-examination procedure is not available.

*[12] Appeal*

At any stage during the application pendency, an appeal relating to the examination or relating to other matters of the procedure of the Eurasian Patent Office can be submitted.

If the grant of a patent is refused, the applicant may, within three months from the date of sending of the notice of refusal, lodge an appeal with the Eurasian Patent Office accompanied with payment of the appeal fee. The appeals are examined by a Board of three examiners, at least two not having been involved in taking of the decision which is appealed. The appeal should be considered within four months from the date of its receipt by the Office, but this time limit may be extended by the President of the Office. The decision on the appeal is final if it is approved by the President of the Eurasian Patent Office.

Appeal against the decision in opposition proceedings shall be submitted to the President of the Eurasian Patent Office within four months from the date of sending of the decision. The President shall consider the appeal and either orders reconsideration of the decision by the Board or makes a decision on the appeal himself.

*[13] Unity of invention*

A patent application may relate only to one invention or to a group of inventions so linked as to form a single general inventive concept. If the unity requirement is not met, the applicant must restrict the application to an invention or group of inventions meeting this requirement, and for the other inventions or groups of inventions, divisional application(s) may be filed.

*[14] Divisional applications / Continuation applications*

A divisional application shall be filed before issuance of the Decision on Patent Grant or until expiration of the term for lodging appeal against the refusal decision. The examination request must be made and the examination fee paid before expiration of six months from the date of publication of the search report. Where the search report under the parent application can be used for the examination of the divisional application, the fee for substantive examination of the divisional application shall be paid within six months from the date of publication of the search report under the parent application. If six months have expired at the time of filing the divisional application, the fee for the substantive examination should be paid on the filing date of the divisional application.

Continuation applications are not applicable in this jurisdiction.

*[15] Conversion*

Utility models are not granted in this jurisdiction.

If the grant of a Eurasian patent is refused, the applicant may convert the application for the grant of a Eurasian patent into one or more national application(s) in the Contracting States of the Eurasian Patent Convention where the applicant desires to obtain a patent. The request for such conversion, designating the Contracting States in which the grant of a national patent is desired may be filed until expiration of six months from the notice of refusal to grant a Eurasian patent or (if appeal has been lodged) the notice of refusal to allow the appeal. A fee must be paid for the conversion request. After receipt of this fee, the Eurasian Patent Office forwards a certified copy of the Eurasian application to the National Patent Offices of the Contracting States in which the applicant desires to obtain a national patent. After such conversion, the Eurasian patent application becomes a national application, having the filing and priority date of the original Eurasian application, and it is further examined by the National Patent Office.

*[16] Publication / Public File Inspection*

The Eurasian patent application is published together with the search report as soon as possible after expiration of eighteen months from the filing date or, if priority is claimed, after expiration of eighteen months from the priority date. The applicant may request publication of the application at any time before expiration of said eighteen-month period. Early publication may be desired because the publication of the application triggers provisional protection: after grant of the patent, a reasonable compensation may be claimed in accordance with the national legislation of the Contracting States. In case of early publication of the application, the search report will be published as soon as possible separately. The publication of the application includes: the front page with the published bibliographical data; the abstract; the description; the claims; the drawings and other material; and the search report (if available). If the search report is published separately, it will be accompanied by the front page with the published bibliographical data, including the date of publication of the application and the date of publication of the search report, and the abstract.

Prior to publication, the application will be accessible to third parties only if requested or authorized by the applicant or if requested by a court.

Within six months from the date of registration of the Eurasian patent, the particulars of the grant are published in the Gazette of the Eurasian Patent Office; at the same time, the Office shall publish the description, claims, and drawings and other material. The date of grant of the patent is the date of publication of the particulars of the grant in the Gazette.

The Register of Eurasian Patents is open for public requests, and extracts therefrom may be obtained against payment of the required fee.

*[17] Withdrawal to prevent publication*

If the application is withdrawn or considered withdrawn or refused or considered refused no later than two months before the intended date of its publication, the application shall not be published; so, if the applicant desires to actively withdraw the application with preventing its publication, the application shall be withdrawn at least two months before the intended date of publication, i.e., within sixteen months after the filing date or priority date, if priority is claimed.

**[J] Nullity and Revocation**

A Eurasian patent may in each of the Contracting States be nullified at any time during its lifetime, if it is revealed that the invention does not meet the conditions of patentability, if the claims of the patent contain features which are absent in the application as originally filed, or in case of incorrect indication of the inventor or the owner of the patent. The national courts or other competent authority of the Contracting States when considering disputes concerning the validity of a Eurasian patent must apply the Eurasian Patent Convention and Regulations under it. The national court (or other competent authority) of the Contracting State may require a translation of the Eurasian patent in the official language of that State. Nullification is effective only in the territory of the State(s) where the nullification decision has been made. Partial nullification is possible if allowed by the national legislation of the Contracting State. Nullification has retroactive effect as from the filing date.

The owner of a Eurasian patent may surrender the patent in respect of any of the Contracting States in which it is effective, by filing a written declaration to that effect with the Eurasian patent office and paying the required fee.

**[K] Use Requirement**

There are no provisions on working in the Eurasian patent law. The working requirements will be based in each Contracting State where the Eurasian patent is valid on the provisions of the national law of that State.

**[L] Marking**

There are no provisions in the Eurasian patent law on marking of patent protected products, and marked products have no implications for awarding compensation in case of past infringement.

**[M] Infringement**

The scope of protection provided by a Eurasian patent is determined by the claims. The specification and drawings serve merely to interpret the claims. When interpreting the claims, due account is to be taken of every feature of the invention contained in an independent claim or a feature being equivalent thereto. The doctrine of equivalents can be used when the legislation of the Contracting State allows its applying. The interpretation of claims should serve not only to clarify the features thereof which are unclear or indefinite, but also to determine their complete and actual scope; when interpreting the claims the extremes of a strict, literal interpretation of the wording of the claims, and a broad interpretation of the claims taking into consideration the entire specification and drawings in order to identify the inventive concept (whereby the claims serve only as a guideline), must be avoided.

The effects of the exclusive rights conferred by a Eurasian patent start on the date of publication of the patent.

Infringement cases are considered by the national courts of the Contracting States on the basis of the Eurasian Patent Convention and Regulations under it. The decisions made by a national court in infringement proceedings have effect in the respective Contracting State only.

*[1] Infringing acts / Non-infringing acts*

The following acts done without the consent of the owner of a patent are deemed patent infringement:

- in the case of a patent for a product – the manufacture, use, importation, offering for sale, sale or any other kind of marketing or the storage for that purpose, of the product;
- in the case of a patent for a method – the use of that method or the offering of that method for use, and furthermore the use, importation, offering for sale, sale or any other kind of marketing or storage for that purpose of a product directly obtained by the patented method.

As follows from the above, the protection provided by a patent for a method extends to the products directly obtained by that method. If the product obtained by a patented method is a new product, that product shall be deemed to have been obtained by the patented method until the contrary has been proved.

At present, there are no provisions in the Eurasian patent law on indirect (contributory) infringement.

The following are not deemed infringement:

- use of a patented invention for scientific and experimental purposes;

- use of a patented invention for private non-commercial purposes only;
- use of a patented invention in the construction or operation of means of transport of a State party to the Paris Convention which is not a Contracting State of the Eurasian Patent Convention, when such means of transport enter the territorial waters, airspace or territory of a Contracting State of the Eurasian Patent Convention only temporarily or accidentally, provided that the invention is used for the needs of said means of transport only;
- the extemporaneous preparation of a medicine in a pharmacy on a medical prescription;
- acts with regard to a patent protected product committed in a Contracting State where the Eurasian patent has effect after that product has been put into the market in that State by the owner of the patent or with the owner's consent (i.e., exhaustion of rights).

Use of a patented drug for experimental purposes, including clinical experiments and trials, is also not deemed infringement ('Bolar provision').

### *[2] Prior user rights*

Any person (individual or legal entity) who before the filing date or (if priority has been established) before the priority date has in good faith used a solution identical to the patented invention on the territory of a Contracting State of the Eurasian Patent Convention, or has made the necessary preparations for such use, may continue that use or start that use free of charge, provided that the scope of the use is not expanded. Such right of prior use may be transferred only together with the production unit in which the use is made or the necessary preparations for the use have been made. An important aspect is that the prior user's right exists only in the Contracting State(s) of the Eurasian Patent Convention in which the prior use has occurred.

### *[3] Remedies*

Each Contracting State must provide for the same civil or other liability as in case of infringement of a national patent. In case of infringement, the following remedies are available: injunction; award of damages; compensation for moral damage; and any other remedies as provided by the legislation of the Contracting State concerned.

Any licensee may take part in infringement proceedings before the court instituted by the patent owner, in order to obtain his own share in the damages awarded. An exclusive licensee may bring an infringement action on own initiative, except if provided otherwise in the licence contract. Any licensee (exclusive or non-exclusive) may bring an infringement action in his own name if the patent owner, after having been asked by the licensee to take action, does not take action within one month; the patent owner in such case may take part in the infringement proceedings brought by the licensee.

The ultimate term for infringement action is three years after the date on which plaintiff became aware or should have become aware of the infringement.

Effect of published application: Provisional protection starts from the date of publication of the application. After publication of the Eurasian patent, the patent owner may claim in accordance with the national law of a Contracting State a reasonable compensation from the persons who without the owner's consent used the invention on the territory of the concerned State during the period from the date of publication of the application until the date of publication of the Eurasian patent. The provisional protection is limited to the scope of the published claims of the application. For international patent applications filed under the PCT and designating the Eurasian Patent Office said provisional protection starts on the date of publication of the international application if the application is published in Russian; if the publication is in a language other than Russian, the provisional protection starts only after submitting a translation of the application into Russian to the Eurasian Patent Office and the Eurasian Patent



Office publishing that translation. If grant of a Eurasian patent has been finally refused, then provisional protection is considered as never existed.

*[4] Penal provisions*

See the respective country chapters.

*[5] Enforcement and Customs*

See the respective country chapters.

**[N] Restoration after unintentional lapse**

Restoration shall be effected in relation to one or more Contracting States, on the territory of which the Eurasian patent was valid, and the legislation of which provides for the restoration of the right to a patent. Restoration of right to a patent is currently provided for in all EAPO Contracting Parties.

If the applicant has failed to meet the time limit set by the Eurasian Patent Office for performing a procedural act when obtaining a Eurasian patent, the Eurasian Patent Office may restore the rights upon the applicant's request, provided that the applicant presents legitimate reasons for the delay and pays an additional fee (at present 50% of the fee due for the act concerned). A request for restoration of the right to a Eurasian application shall be filed not later than twelve months from the date of expiry of the prescribed time limit, and not later than two months from the date on which the reason for the failure to respect the missed time limit is eliminated. No restoration is possible in case of failure to comply with any of the following time limits: the term for filing opposition; the six months term for late payment of annual fees; the two months term for late payment of the grant fee; the term for requesting restoration.

The validity of a Eurasian patent which terminated early due to failure to pay the maintenance fee may be restored on a request by the patent owner. The request must be filed within a three-year period starting from the date of expiry of the original time limit for payment of the fee not respected (i.e., not from the expiry of the six months term for late payment of annual fees).

Priority term: The Eurasian application in which priority of an earlier Convention application is claimed must be filed within twelve months from the application whose priority is to be claimed. However, if the Eurasian application cannot be so filed due to circumstances beyond the control of applicant, the twelve-month term may be extended with two months; in such case together with the Eurasian application a document must be filed evidencing circumstances beyond the control of the applicant which prevented applicant from filing the Eurasian application within the twelve-month priority term, as well as a document evidencing the payment of the required additional fee.

Provided that a PCT application and a request for restoration is filed at the Receiving Office in this jurisdiction within fourteen months from the priority date, restoration of priority right under Rule 26bis.3 in the international phase of the PCT application may be possible. If a priority right for a PCT application was restored by the Receiving Office, this may be recognized under Rule 49ter.1 PCT for the regional phase application in this jurisdiction. Also a review of negative decision on the request for restoration by the Receiving Office may be requested in the regional phase. Furthermore, if a PCT application was filed within fourteen months from the priority date, but no request for restoration of priority right was filed at the Receiving Office, a request for restoration of priority right under Rule 49ter.2 PCT may be filed at the Designated Office within one month from the applicable time limit for the entry into the regional phase.

**[O] Specific Aspects of Regional Patents**

Each Contracting State will receive the specifications of Eurasian applications and Eurasian patents.

An application for a Eurasian patent covers all Contracting States of the Eurasian Patent Convention, and a Eurasian patent is granted for all these Contracting States together. It is not possible to apply for or to obtain a Eurasian patent for only one or some of the Contracting States. Unlike a European patent granted by the European Patent Office, a granted Eurasian patent is not a bundle of national patents, but is a single patent having unitary legal effect in the territories of all Contracting States. However, a granted Eurasian patent is maintained in respect of each of the Contracting States by paying annual maintenance fees to the Eurasian Patent Office for each of these States.

*[1] Filing Authority*

See under ‘Application Procedure’.

*[2] Appointment of Representative*

See under ‘Filing Requirements’.

*[3] Validation*

After grant, no formalities are necessary to validate the patent in the Contracting States.

*[4] Authentic text*

The authentic text is the Russian text. No translations need to be filed after grant in the Contracting States.

*[5] Amendments and corrections*

See under ‘Application Procedure’.

*[6] Publication*

See under ‘Application Procedure’.

*[7] Provisional protection*

See under ‘Infringement’.

*[8] Simultaneous protection*

For the provisions in each Contracting State, see the respective country chapters under ‘Specific Aspects of Regional Patents’.



*[9] Conversion*

See under ‘Application Procedure’.

*[10] Payment of fees*

No fees are payable to the national offices of the Contracting States.

**[P] Specific Aspects of International Patent Applications (PCT)**

All Contracting States of the Eurasian Patent Convention are parties to the Patent Cooperation Treaty (PCT) as well. In a PCT international application, the Contracting States of the Eurasian Patent Convention may be designated specifically, but in such international application also the Eurasian Patent Office may be designated, either instead of or in addition to the specific designation of the Contracting States of the Eurasian Patent Convention. A designation of the Eurasian Patent Office in an international application is valid for all the Contracting States of the Eurasian Patent Convention.

*[1] Receiving Office*

The Eurasian Patent Office may act as a Receiving Office for PCT international applications filed by nationals or residents of the Contracting States of the Eurasian Patent Convention.

International applications to be filed with the Eurasian Patent Office must be filed in Russian or English language, in three copies.

*[2] International Searching Authority*

The competent International Searching Authority for international applications filed with the Eurasian Patent Office is the Russian Patent Office and the European Patent Office for applications filed in English.

*[3] International Preliminary Examining Authority*

The competent International Preliminary Examining Authority for international applications filed with the Eurasian Patent Office is the Russian Patent Office and the European Patent Office for the applications with search report made also by the European Patent Office.

*[4] National phase / Regional phase*

Some particulars for entering the regional phase before the Eurasian Patent Office of PCT international applications designating the Eurasian Patent Office are as follows:

- (1) Time limit for entering regional phase. The time limit for entering the regional phase of a PCT international patent application before the Eurasian Patent Office is thirty-one months from the priority date.
- (2) Special form. The Eurasian Patent Office has available a special form (in Russian) for entering the regional phase which should preferably be used.
- (3) The translation.

- Within thirty-three months from the priority date, a translation into Russian language of the international application must be filed.
  - If the translation has not been filed within the period mentioned under (a), it may still be filed within two further months, provided that an extra fee is paid within that period as well.
  - The translation must contain the description, claims, text matter of any drawings and abstract; if the claims were amended, the translation must contain the claims as amended only.
- (4) Further requirements.
- If not already furnished in the request part of the international application, the name and address of the inventor must be given within thirty-one months from the priority date.
  - Applicants not residing nor having their principal place of business in the territory of any of the Contracting States of the Eurasian Patent Convention, must within thirty-one months from the priority date appoint a Eurasian patent attorney.
  - If the name and address of the inventor (where required) have not been given or the representative (where required) has not been appointed within the thirty-one-month time limit, the Eurasian Patent Office will invite the applicant to comply with this requirement as yet within a time limit mentioned in the invitation.
- (5) Search report.
- The Regulations under the Eurasian Patent Convention provide that the international search report and its publication under the PCT substitute the search report to be established by (or on behalf of) the Eurasian Patent Office in the case of Eurasian patent applications.
  - A notice of the publication of the international search report relating to an international application for which the regional phase before the Eurasian Patent Office has been properly entered into is published in the Gazette of the Eurasian Patent Office.
- (6) Examination request.
- Also for international applications designating the Eurasian Patent Office an explicit request for (substantive) examination must be made to that Office, failing which the application will be considered withdrawn as far as the Eurasian Patent Office is concerned.
  - The examination request must be made and the examination fee be paid within thirty-one months from the priority date or within six months from publication by the International Bureau of the international search report, whichever period expires later.
  - The examination request may still be filed, with payment of an additional fee, within two months from expiration of the applicable period referred to under (b), provided that there are valid reasons for the non-compliance with the time limit and evidence of such reasons is furnished.
- (7) PCT Chapter II. If the Contracting States have been elected in time under PCT Chapter II, and any of the description, claims, text matter of drawings or abstract have been amended, the Russian translation of the international application that is filed must contain these only as amended by the annexes to the international preliminary examination report.
- (8) Further particulars. After an international application enters the Eurasian regional phase, it is further processed in a manner generally similar to a Eurasian application.

However, the Eurasian Patent Office will not start the processing of an application before expiration of the time limit for entering the regional phase, except if applicant files a special request for early beginning of the processing (and provided that applicant has complied with the requirements for entering the regional phase).

The average processing time from entry into the regional phase to grant is two years.

*[5] Payment of fees*

Fees to be paid:

- Within thirty-one months from the priority date, the single procedural fee for filing, novelty search, publication of the application and other procedural acts, as well as the special claims fee for each claim over the fifth, must be paid.
- If said fees are not paid within the thirty-one-month period, they may still be paid, with a surcharge of 20%, within two further months.
- The single procedural fee is reduced by 25% if an international search report has been established by an International Searching Authority (or by 40% if an international search report or international-type search report has been established by the Russian Patent Office).
- The examination fee is to be paid on filing the request for examination (for the time limit for filing the request for examination and payment of the examination fee see above, item (6)).

**[Q] Fees**

The official fees due to the Eurasian Patent Office are fixed in Russian Roubles (RUR).

In all cases where a fee is due a document must be submitted evidencing the payment thereof without which a fee is considered unpaid. A document evidencing payment of a fee must relate to one Eurasian application or one Eurasian patent, and must indicate: (i) in the case of an application, the title of the invention or the serial number of the application when it has been assigned, as well as the action for which the fee is paid, and (ii) in the case of a patent, the patent number and the action for which payment is made.

A natural person from a state included in the list of states meeting the criteria established for provision of reductions for international fees under the Patent Cooperation Treaty pays 50% of the prescribed fee. A natural person from a Contracting State to the Eurasian Patent Convention shall pay 10% of the prescribed fee.

An entity that is a scientific or educational organization from a Contracting State to the Eurasian Patent Convention shall pay 30% of the prescribed fee. Other entities from Contracting States to the Eurasian Patent Convention shall pay 90% of the prescribed fee.

The said reductions are applied to the fees for filing applications, appeals, substantive examination, grant of patents, introduction of amendments, restoration of terms and assignment of rights.

*[1] Table of official fees*

	RUR
Single procedural fee for filing of a Eurasian patent application, novelty search and publication of application	28,000
Additional claims fee for each claim	
– exceeding five;	3,700
– exceeding twenty	4,000
– exceeding fifty	5,000
Additional fee for late filing during two-month grace period of proof of payment of the single procedural fee and additional claims fee	20% of the fee(s) concerned

Fee for late filing during two-month grace period of Russian translation of documents of an application first filed in another language	3,700
If the application includes or applicant files on filing the application an international search report prepared by an International Searching Authority under the PCT	the single procedural fee will be reduced by 25% for those inventions in respect of which the report has been filed. If the international search report or international-type search report has been prepared by the Russian Patent Office (Rospatent) the single procedural fee will be reduced by 40%.
Claiming priority for an application filed within two months after expiration of twelve-month priority term (in which case proof must be filed of circumstances beyond applicant's control which prevented filing of Eurasian application within twelve-month priority term)	16,000
Examination fee in relation to one invention	30,000
Examination fee in relation to a group of inventions:	30,000
additionally, for the second invention	20,000
additionally, for each subsequent invention	10,000
Additional fee for filing examination request within two-month grace period (in which case proof of legitimate reasons for the delay must be filed)	50% of the examination fee due
Accelerated formal examination within five days	20,000
Accelerated formal examination within ten days	10,000
Accelerated substantive examination	60,000
Accelerated publication and grant	20,000
Fee for amendment of, addition to or correction of application before formal examination has been completed, for each petition	3,700
Fee for amendment of, addition to or correction of application after formal examination has been completed, for each petition	6,400
Fee for extension of the time limit to file additional materials at the Examiner's request:	
– up to twelve months after the expiry of the prescribed time limit – RUB 1,000 each of the first two months of the extension. The fee for each subsequent month increases by RUB 1,000 in comparison to the preceding month	
– more than twelve months after the expiry of the prescribed time limit, the fee for each subsequent month starting thirteenth month of extension increases by RUB 1,250 in comparison to the preceding month	

Fee for restoration of a missed time limit for performing a procedural action on obtaining a Eurasian patent	25,000
Fee for conversion of Eurasian application into national application	6,400

Fee for lodging an appeal against decision refusing patent	20,000
Fee for grant:	
basic fee for grant and publication of grant	18,000
additional publication fee for each sheet relating to one invention over thirty-five sheets	200
Additional fee for paying grant fee within 2-month grace period	3,700
Opposition fee	30,000
Fee for filing an appeal to the President of the EAPO:	
– in the procedure of consideration of an appeal against the decision on refusal	35,000
– in the procedure of administrative revocation	45,000
Publication of a new specification of a Eurasian patent amended as a result of opposition proceedings:	
– basic fee	6,400
– additional fee for each sheet in excess of thirty-five sheets	320
Assignment of a Eurasian patent application	7,500
Assignment of a Eurasian patent	15,000
Registration of pledge of a Eurasian application	3,700
Registration of pledge of a Eurasian patent	7,500
Each correction of an error in a granted Eurasian patent attributable to applicant	3,700
Filing a request for recording of the change of the name of patent owner, his/her location or place of residence	1,800
Fee for access to materials of a Eurasian application or patent	4,000
Fee for one request to Register of Eurasian Patents	800
Fee for filing declaration of surrender of patent	640

**[R] Transitional Provisions**

Not applicable in this jurisdiction.

**[S] Specific Patent Issues**

No specific issues in this jurisdiction.

**[T] Governmental Websites**

- <https://www.eapo.org>
- <https://www.eapo.org/en/publications/publicat> (Publication Server)
- <https://www.eapo.org/en/?patents=reestr> (Register)

