

Institute for Intellectual Property of Bosnia and Herzegovina

Dear Madam/Sirs,

Regarding the document C.8787 dated 31.07.2018., we would like to inform the SCP that Institute for Intellectual property of Bosnia and Herzegovina does not have any additional inputs for the preparation of

- (i) A draft reference document on search exception and
- (ii) A document updating document SCP/20/9 (Confidentiality of Communications between Clients and their patent Advisors)

In addition , in order to maintain the information collected the activities of the SCP up-to-date, kindly be informed about the regulations prescribed by our Patent Law:

- (i) Certain aspects of the applicable national Patent Law:

Prior art and Novelty

Article 8 Patent Law (Novelty of an Invention)

- (1) An invention is new if it does not form part of the state of the art.
- (2) The state of the art shall comprise everything that has been made available to the public in the world, by means of a written or oral description, by use, or in any other way, before the date of filing the patent application.
- (3) The state of the art also includes the contents of all the patent applications having effect in Bosnia and Herzegovina, such as filed, with filing dates earlier than the filing date of the application referred to in paragraph (2) of this Article and which were published on that date or thereafter, in the manner as provided in this Law.
- (4) The provisions of paragraphs (1) to (3) of this Article shall not exclude the possibility for patent protection of a substance or compositions forming part of the state of the art, which are used in processes referred to in item c) of paragraph (1) of article 7 of this Law, provided that their use in the mentioned processes is not part of the state of the art.
- (5) An invention shall be considered to form part of the state of the art if it became available to the public by means of publication, display at an exhibition, presentation or use thereof in the manner enabling the persons skilled in the art to carry it out

Grace period

Article 9 Patent Law (Non-Prejudicial Disclosures)

An invention shall be considered new if not more than six months prior to the filing date of the patent application it formed part of the state of the art due to or in consequence of:

- a) evident abuse in relation to the patent applicant or its legal predecessor or,
- b) display at an official or officially recognized exhibition in accordance with the

Convention on International Exhibitions signed in Paris on November 22, 1928 and last revised on November 30, 1972, provided that the applicant indicates in the patent application at the time of filing thereof that the invention has been displayed and files a corresponding certificate of the display of the invention not later than within four months from the filing date of the application.

Exceptions and Limitations of the Rights

Article 73 Patent Law (Exceptions from the Exclusive Rights)

The patent holder's exclusive right shall not apply to:

- a) acts in which an invention is exploited for private and noncommercial purposes,
- b) acts performed for research and development purposes, and for experiments relating to the subject matter of the protected invention, including the acts necessary for obtaining registration or marketing authorization for the product which is a medicine intended for humans or animals or a medicinal product,
- c) direct or individual preparation of a medicine in a pharmacy on the basis of an individual medical prescription and procedures relating to the medicine so prepared.

Article 74 Patent Law (Right of Prior Use)

(1) A patent shall have no effect against a person who had, prior to the filing date or prior to the date of the granted priority of a patent application, exploited or manufactured in good faith and within his economic activities a product according to the protected invention or had made real and serious preparations for such an exploitation of the invention in Bosnia and Herzegovina.

(2) The person referred to in paragraph (1) of this Article shall have the right to proceed, without the patent holder's consent, with the exploitation of the invention to the extent to which he had exploited it or prepared it for the exploitation up to the filing date of the patent application for the said invention.

(3) The right referred to in paragraph (2) of this Article may be transferred or inherited only together with the working process and production plant in which the exploitation of the invention has been prepared or started.

Article 75 Patent Law (Limitations of Effects in Respect of the Patents in the Field of Biotechnology)

(1) The exclusive rights deriving from the provision of Article 67 of this Law shall not apply to the biological material obtained from the propagation and multiplication of the biological material marketed in Bosnia and Herzegovina by the patent holder or with his consent, where the propagation and multiplication necessarily result from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for further propagation and multiplication.

(2) By way of derogation from the provision of Article 67 of this Law, by means of the sale or another form of commercialization of the plant propagating material to a farmer by the patent holder or with his consent, for farming purposes, the farmer acquires the authorization to use the products of his harvest for the propagation or multiplication on his farm.

(3) By way of derogation from the provision of Article 67 of this Law, by means of the sale or another form of commercialization of breeding stock or another animal reproductive material to a farmer by the patent holder or with his consent, the farmer acquires the authorization to use the protected livestock for agricultural purposes, including at the same time the availability of the animal or another animal reproductive material for the purpose of carrying out his own farming activities, but not the sale within the framework or for the purpose of commercial reproduction activity.

Article 76 Patent Law (Exhaustion of Rights)

The placing on the market within the territory of Bosnia and Herzegovina of a product made according to a protected invention or a product directly obtained by a process which is the subject matter of an invention by the patent holder or with his explicit consent shall exhaust for the territory of Bosnia and Herzegovina the exclusive rights conferred by the patent in respect of such a product.

Article 77 Patent Law (Vehicles in International Traffic)

The use of products made according to a protected invention in the construction or equipment of a vessel, aircraft or land vehicle belonging to any of the Member States of the Paris Union or WTO shall not be considered a patent infringement where such transport means is temporarily or accidentally in the territory of Bosnia and Herzegovina, provided that the built-in product serves exclusively for the purposes of the said means of transport.

Article 79 Patent Law (Compulsory License)

(1) If the right holder refuses to assign the right to the economic exploitation of a protected invention in Bosnia and Herzegovina or imposes unreasonable conditions for such an assignment without having made effective and serious preparations for the exploitation thereof in Bosnia and Herzegovina, the Court of Bosnia and Herzegovina may grant a

compulsory license at the request of an interested party. In such a case, the right holder shall be informed of the grant of the compulsory license within a shortest possible time limit.