



How to Get a Eurasian Patent

EURASIAN PATENT OFFICE







Dear Reader,

The Eurasian Patent Organization has entered the second decade of its existence. It is a regional organization of nine states party to the Eurasian Patent Convention: the Azerbaijan Republic, the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan and Turkmenistan. The main task of the Organization and its Patent Office is to secure legal protection for inventions in these countries with a view to:

Upholding rights and legitimate interests of patentees, i.e. those who took part in the creation and commercial use of inventions, as well as new products and processes embodying them;

Preserving and multiplying the intellectual, scientific, technological, innovation and industrial potential of its members in the face of strong competition in the global IP market;

Developing mutually beneficial cooperation with partners from other countries of the world in science, technology, trade, economy, patenting and licensing; as well as facilitating the flow of foreign innovative technologies and investment to the economies of the countries in the region;

Promoting rapid economic growth in its members on the basis of national and global intellectual resources.

As part of this brief, the Eurasian Office has also made its information resources available to third parties for free access to Eurasian and world patent documentation. Its availability, especially in these days, is becoming an increasingly important source of new inventions, a powerful instrument of information support for their patentability and competitiveness and the protection of economic and other strategic interests of the developers and national industries already in the early stages of the innovation process.

From our inception we have closely cooperated with the national offices of the countries in the region, the European Patent Office and the World Intellectual Property Organization to make our regional protection of inventions and our services in Eurasian patenting information reliable, accessible and economically attractive.

We pride ourselves not only on these accomplishments but also on having gained international recognition and a standing as a provider of patenting services, with applicants from over 80 countries of the world including the

USA, Germany, Russia, Japan, the Netherlands, the United Kingdom and France having used the Eurasian patenting process.

The databases of the Eurasian Patent Information System contain over 32 million patent documents. The search potential of this high-speed system is in great demand among examiners of the Eurasian and national offices, Eurasian patent attorneys and other users.

Our Office also provides a range of other patent information services.

Another salient feature of the Eurasian patenting process, and this is a global trend, is that it enables effective coexistence of the regional and national protection systems. Far from reducing interest in the national process or limiting freedom of choice, it has created new, broader patenting opportunities for countries in the region offering legal, information and economic advantages to would-be patentees and the national offices.

For the Eurasian Patent Office, constant broadening, updating and streamlining of these services is an ongoing concern.

This booklet is meant primarily for those who wish to have their inventions patented in countries party to the Eurasian Patent Convention using the Eurasian patenting procedure.

I wish you every success in your noble creative activities,



A. N. Grigoriev
President, Eurasian Patent Office

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PART 1. GENERAL

1.1 THE EURASIAN PATENT CONVENTION

The Eurasian Patent Convention (hereinafter: Convention) came into force on 12 August 1995.

The main purpose of the Convention — and the Eurasian Patent Organization (hereinafter: EAPO) established by it — is to create an international regional system of legal protection for inventions on the basis of a common Eurasian patent covering the territory of all the states party to the Convention.

The term of the Eurasian patent is twenty years from the date of filing the Eurasian application.

The Convention's entry into force has created a unitary patent system throughout the territory of its States party to the Convention which, following international practice in the field of patent co-operation and integration, provides for

- a simple and inexpensive procedure for obtaining patents with validity in all the Convention's States party to the Convention (one Eurasian application in one language (Russian) — one examination — a common Eurasian patent);
- strong Eurasian patents since all Eurasian applications have to undergo substantive examination;
- harmonised protection of the patentee's rights within a unitary patent area on the basis of the Convention and other related regulations.

1.2 RELATIONSHIP TO OTHER INTERNATIONAL CONVENTIONS

The Convention constitutes a special agreement within the meaning of Article 19 of the Paris Convention on the Protection of Industrial Property (hereinafter: the Paris Convention). This means in particular that the provisions of the Paris Convention relating, for example, to the claiming of priority also apply to the processing of Eurasian applications.

The Convention is a regional patent treaty within the meaning of Article 45 of the Patent Cooperation Treaty (PCT). Eurasian patents can therefore be granted on the basis of an international application filed in accordance with the PCT.

The Eurasian Patent Office (hereinafter: Eurasian Office) acts as a receiving office, designated office and elected office under the Patent Cooperation Treaty and, when so empowered by the Administrative Council, may apply for the status of an International Searching and Preliminary Examining Authority under the PCT. The requirements of the Patent Instruction to the Eurasian Patent Convention (hereinafter – the Patent Instruction) with regard to the Eurasian application, its form, filing, filing date, priority date, etc. are in compliance with the relevant provisions of the Patent Law Treaty (PLT).

As regards patenting biotechnology inventions, the relevant provisions of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure are applied.

The Eurasian Office uses the International Patent Classification (IPC) introduced by the Strasbourg Agreement Concerning the International Patent Classification. From 1 January 2006, the Eurasian Office has been using the extended level of the eighth version of the IPC.

The Eurasian Office may enter into Eurasian patent search agreements with national or regional Offices, provided that the national or regional patent office is able to carry out a search of the same type as that conducted under the PCT.

1.3

CHOOSING A PATENT PROCEDURE

In seeking patent protection, the applicant has a choice between the national procedure in each state party to the Convention and the Eurasian procedure, which grants a Eurasian patent conferring protection in all the States party to the Convention.

Furthermore, the applicant may choose between filing directly with the Eurasian Office (this can also be done through the intermediary of the national office) and using the PCT procedure.

Filing directly with the Eurasian Office has the effect that the entire Eurasian patent grant procedure is governed by the Convention and the Patent Instruction. For applications filed in accordance with the PCT, the initial part of the procedure is governed by PCT provisions (international phase), whereas the regional phase is governed by Eurasian Office provisions.

Procedural advantages. The Eurasian protection system, based on a common patent, valid in all the States party to the Convention, uses a uniform procedure for the grant of patents eliminating the need to file applications and to conduct examination separately in each state party to the Convention.

The Eurasian patent system is flexible and user-friendly in terms of time limits for the grant of a Eurasian patent, the possibility of extending time limits and restoring rights in an application or a patent, where such rights are lost as a result of failure to meet time limits, as well as provision for accelerated processing and Eurasian patent extension.

Economic factors. The Eurasian patent grant procedure provides for fee payments to be spread over the application processing and patent issuing period. This allows applicants to assess their chances of obtaining a patent and to consider whether to proceed with the application, incurring the associated financial expenditure.

In particular, this has been achieved through the separation of fee payment into two stages, the first of which consists of the formal examination, the patent search and the publication of the application, while the second consists of the substantive examination, the grant and publication of a patent.

Applicants may use the search report to determine whether to proceed to the second stage.

If the application contains an international search report or an international-type search report prepared by an international searching authority the applicant is entitled to a 25% reduction in the search fee for each invention included in the report, or to a 40% reduction if such reports were prepared by the Federal Service for Intellectual Property, Patents and Trademarks.

Persons whose residence or principal place of business are located in a State party to the Paris Convention on the Protection of Industrial Property where the per capita Gross National Income is \$3,000 or less pay selected fees at a rate reduced by 80% (a list of such States appears in the Addendum).

Applicants from States party to the Convention are entitled to a 90% reduction

in the fee for the filing of a Eurasian application, the transfer and restoration of rights in a Eurasian application or a Eurasian patent.

Where there are several applicants the appropriate reduction is only applicable if each of the applicants is entitled to it individually.

The reduction is not applicable to legal entities whose equity capital on the filing date of a Eurasian patent application includes direct or indirect investments from persons or legal entities who are nationals or residents of States that do not qualify for it.

1.4

CONVERSION OF A EURASIAN PATENT APPLICATION INTO A NATIONAL PATENT APPLICATION

An applicant may file a request with the Eurasian Office designating those states party to the Convention in which he wishes to file a patent application according to the national procedure within six months of notification by the Eurasian Office that the patent grant has been refused or from the date of notification by the Eurasian Office that his appeal against a decision reached by the Eurasian Office has been refused.

In each of such states, the Eurasian application is deemed to be a correctly drawn up national application filed with the national Office with the same filing date and priority date, should the latter be requested, as the Eurasian application.

An application filed with the Eurasian Office may also serve as grounds for establishing Convention priority.

1.5

PROVISIONAL PROTECTION

Inventions for which a Eurasian patent application has been filed are granted provisional protection for the period between the publication and grant of a Eurasian patent. The protection applies to the published claims and covers all states party to the Convention.

Provisional protection for an application filed under the PCT commences on the day of its publication in the Russian language.

1.6

TITLE

The title to a Eurasian patent belongs to the inventor or his successor in title.

Where this person is an employee, the title is defined in accordance with the legislation of his main country of employment. Where there is no main country of employment, the applicable legislation is that of the country in which the employer pursues the business activity involving the employee.

The owner of a Eurasian patent has the exclusive right to use it and also to grant or refuse to grant permission to use the patented invention to third parties. The owner may transfer his right, or license it.

The following rights strengthening the positions of the owner of a Eurasian patent in the markets of states party to the Convention are accorded to him without any additional designation fees:

- Exclusive rights to an invention in all states party to the Convention for the period between the patent grant and the expiration of the time limit for the payment of the first annual maintenance fee;

- Possibility of receiving commensurate compensation from persons who, without the owner's consent, used the claimed invention in a state party to the Convention during the period of provisional protection.

1.7 EXTENSION OF THE TERM OF A EURASIAN PATENT

At the request of the patentee, the twenty-year term of a Eurasian patent may be extended in states party to the Convention whose legislation contains a provision for the extension of the term of national patents.

The extension of the term of a Eurasian patent in such a state party to the Convention is performed by the Eurasian Office in accordance with the terms provided for in the state's legislation for the extension of the term of national patents.

1.8 RIGHT OF PRIOR USE AND SUBSEQUENT USE

The Eurasian patent legislation takes into account the interests of third parties whose creative, economic or entrepreneurial activities are contiguous upon exclusive rights accorded to owners of Eurasian patents in the States party to the Convention.

Physical or legal persons or organisations with equivalent status that, before the application filing date (or, as the case may be, before the priority date, if any), have used in good faith in the territory of a state party to the Convention a solution identical to an invention protected by a Eurasian patent retain the right of subsequent use of the solution free of charge without, however, widening the scope of its use.

Such persons that began, in good faith, using the invention or an identical solution in a state party to the Convention during the period between the date on which rights in a published Eurasian application or a granted Eurasian patent were lost and the date on which mention about the restoration of rights in the Eurasian application or the Eurasian patent was published, can continue using the invention or the equivalent solution free of charge but without widening the scope of such use.

The right of prior use and subsequent use also applies to persons who have not started using such assets but have already made the necessary preparations to do so.

The right of prior use and subsequent use can only be transferred to other physical or legal persons or organisations with equivalent status together with the production facility where the above assets were used or preparations necessary to do so were made.

The right of prior use and subsequent use can only be applied in a state party to the Convention where such use took place.

1.9 REGULATION OF THE USE OF INVENTIONS

Relationships between several owners of a Eurasian patent relating to the use of their invention are governed by the national legislation of the states party to the Convention.

Relationships between the owners of interrelated patents are governed by the national legislation of the relevant States party to the Convention.

Disputes concerning the infringement of a Eurasian patent in a state party to the Convention are resolved by that country's courts or other competent authority on the basis of the Convention and Patent Regulations.

1.10

PROCESSING OF APPLICATIONS

The processing of a Eurasian application consists of two stages, the first one including the determination of the filing date, the formal examination, the search and the publication of the application, the second one starting with substantive examination and ending with the grant and publication of a patent.

The examiner can invite the applicant to take part in the processing if his application at any stage of the exercise.

PART 2. **PATENTABILITY**

2.1 **INVENTION**

Eurasian patents are granted for any inventions which are new, involve an inventive step and are susceptible of industrial application.

If the subject matter of the invention is a method, the protection granted also covers products obtained by that method. The following are not recognized as inventions:

- Discoveries;
- Scientific theories and mathematical methods;
- Presentations of information;
- Business organisation and management methods;
- Notations, schedules and rules;
- Rules and methods of performing mental acts;
- Computer programs and algorithms;
- Designs and layouts of buildings, installations and spaces;
- Treatments relating only to the external appearance of products and intended to satisfy aesthetic requirements.

The mentioned above are not recognized as inventions in cases where a Eurasian application or a Eurasian patent relate directly to any of them as such.

In addition, Eurasian patents cannot be granted for:

- Plant or animal varieties;
- Topologies of integrated circuits;
- Inventions the prevention of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment. Such exclusion is not made merely because the exploitation is prohibited by the legislation of one or more states party to the Convention.

2.2 **STATE OF THE ART**

The state of the art comprises everything that passed into the public domain by means of a written or oral disclosure, by use or in any other way, before the date of filing Eurasian patent application or, if priority is sought, before the date of priority.

2.3 **NOVELTY**

An invention is considered to be new if it does not form part of the state of the art. The novelty of an invention is determined by comparing its claimed subject matter with each of the subject matters serving the same purpose and forming part of the state of the art.

For the purposes of testing novelty of invention, the state of the art also includes the content of any Eurasian patent application in the version in which it was submitted at the date of filing, provided that the application, or the Eurasian patent granted to it, is subsequently duly published and that the filing date, or the priority

date if priority was sought, precede the date of the application. The content of an international application becomes part of the state of the art from its filing (priority) date if it is eligible for entering the regional phase.

2.4 INVENTIVE STEP

An invention is considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

Determining whether or not the invention involves an inventive step presupposes that there is a known causal relationship between the features of an invention and the anticipated technical effect.

The determination also involves the use of such secondary criteria as:

- The commercial success of the invention
- The fact that it satisfies a long-standing need
- The complexity of the problem
- The fact that the invention makes an outstanding contribution to technology
- Its ability to overcome the mistrust and scepticism of specialists
- Professional recognition etc.

In the majority of cases, the fact that the invention involves an inventive step is demonstrated by its ability to produce an unforeseen technical effect through a new combination of known technical means.

2.5 INDUSTRIAL APPLICABILITY

An invention is considered to be susceptible of industrial application if it can be used in industry, agriculture, health care or other areas.

The minimum requirements for demonstrating industrial applicability are as follows:

- The application documents must include an indication of the purpose of the invention;
- There must be confirmation that the invention, in the form in which it is described in the claims, can be carried out using the means and methods described in the application, or known before its date of priority.

The fulfillment of these requirements alone does not, however, constitute a full demonstration of industrial applicability. While the inventor is not required to prove that his invention is better, or at least as good as the prior art, the technical standard of the invention must correspond to the state of the art. Failure to satisfy this requirement might be demonstrated if the idea on which the invention was based proved incorrect, or if the claimed technical characteristics clearly did not correspond to the achieved effect.

2.6 NON-PREJUDICIAL DISCLOSURES

Disclosure of information relating to an invention by the inventor, applicant or any person who has obtained this information from them directly or indirectly is not regarded as prejudicial to the patentability of an invention if the patent application was filed at the Eurasian Office not later than six months after the date of disclosure, or the date of priority where priority was sought. Proof of the circumstances of disclosure rests with the applicant.

PART 3. DRAWING UP AND FILING A EURASIAN APPLICATION

3.1 WHO CAN FILE A EURASIAN PATENT APPLICATION

A Eurasian patent application may be filed by any physical or legal person eligible to obtain a Eurasian patent, irrespective of their citizenship, residence or principal place of business.

For the purposes of the Eurasian procedure, a person who has filed a Eurasian application shall be deemed eligible to obtain a Eurasian patent.

A Eurasian patent application may also be filed by a group of persons, for example, jointly by a legal person and a physical person.

Applicants with residence or principal place of business in a state party to the Convention can file Eurasian applications (and take action before the Eurasian office) independently or through a representative.

Applicants, irrespective of their nationality, residence or principal place of business, can file Eurasian applications and pay fees independently, i.e. without a representative, even in cases where the appointment of a representative for subsequent actions before the office is mandatory.

3.2 REPRESENTATION

Applicants or patentees having neither their residence nor their principal place of business in a state party to the Convention must be represented by a Eurasian patent agent.

The list of Eurasian patent agents is posted on the Eurasian Office web site:

<http://www.eapo.org>.

Persons having their residence or principal place of business in a state party to the Convention may conduct business with the Eurasian Office either themselves or using the services of Eurasian patent agents or other representatives who are not European patent agents.

Representatives must be provided with a power of attorney done in writing. This power of attorney need not be notarized.

The powers of the representative may be confirmed by a blanket power of attorney in which the applicant authorizes the person in question to represent him before the Eurasian Office with regard to any applications that have been filed or may be filed. The blanket power of attorney is kept at the Eurasian Office, with copies furnished in due time whenever an application is filed.

The power of attorney must be furnished at the time of filing an application or within two months of its receipt by the Office. Failing that, it may be furnished within four months of the date of sending to the applicant a notification about the need to furnish a power of attorney against payment of an additional fee.

Failure to furnish a power of attorney within the required period of time will result in the nullification of all procedural actions by the applicant, with the exception of filing an application, requesting a substantive examination and paying fees.

3.3

ITEMS MAKING UP THE EURASIAN PATENT APPLICATION

A Eurasian patent application must contain a request for the grant of a patent, a description of the invention, claims, drawings and any other materials essential to the understanding of the invention, and an abstract, as well as other materials such as proof of payment of a unitary administrative fee and a power of attorney, if the application is being filed by the applicant's representative.

Where the subject matter of an invention is a nucleotide and/or amino acid sequence listing it must be attached to the application in machine-readable form.

The application must be furnished in triplicate, when it is filed directly with the Eurasian Office, and in quadruplicate, when it is filed with the national office. The applicant must also provide a copy of proof of payment of a unitary administrative fee and a copy of the power of attorney.

3.4

THE LANGUAGE OF THE APPLICATION

The official language of the Eurasian Office is Russian. The request must be in Russian. Other documents of the Eurasian application may be filed in Russian or in another language.

Documents submitted in another language must be accompanied by a translation into Russian.

The translation into Russian may be submitted by the applicant within two months of the date of filing of the Eurasian application. Failing that, the translation may be submitted in the course of the following two months upon payment of an additional fee.

3.5

REQUIREMENTS FOR THE REQUEST

The request for grant must be filed in Russian on a special form approved by the Eurasian Office. The form can be obtained free of charge from the Eurasian Office or the national office of a state party to the Convention.

The editable and printable forms used for the request of grant and the entry into the regional phase with instructions how to fill them in can be found in the Eurasian Office site <http://www.eapo.org/rus/documents/blancs.html>. Before filling out the forms we recommend you to read the instructions for filling out the request for grant posted on the Eurasian Office web site.

The request form must be filled out in its entirety and signed by the applicant or his representative. Where the request is signed in the name of a legal person, the signature must be accompanied by the indication of the signer's post.

3.6

CLAIM TO PRIORITY

Where the applicant or his predecessor in title already filed a patent or utility model application in a state party to the Paris Convention on the Protection of Industrial Property or member of the World Trade Organisation (previous application), he may claim priority in respect of inventions claimed in the previous application(s). To take advantage of this possibility, he must file the Eurasian application within twelve months of the previous application's filing date.

One of the advantages of determining priority on the ground of a previous application is that, for the purposes of a patentability test, the state of the art is determined on the priority date, rather than on the Eurasian application filing date.

More than one priority can be claimed for the same application, and for a single claim, even if previous applications were filed in different States. If more than one priority is claimed, time limits computed from the priority date are computed from the earliest priority date.

Where priority is claimed on the grounds of a previous application, the applicant must indicate the filing date of the previous application, its number and the name of the receiving office. The applicant must also furnish a copy of the previous application certified by the receiving office. Such a copy must be furnished within sixteen months of the earliest priority date.

Failing that, the applicant will lose the right to claim priority.

Where the previous application is in a language other than Russian, its translation into Russian must be furnished to the Eurasian Office only at its request in cases where proof of priority is necessary for determining patentability.

3.7

PRESENTATION OF THE INVENTION

Disclosure of the invention. The Eurasian patent application must disclose the invention in a manner sufficient for it to be carried out by a person skilled in the art. For the purposes of disclosure, the basis of the application is the description. The description must contain sufficient information about the essence of the invention and the ways and means of carrying it out and using it. It must also serve as a source for wording the claims and the determination of the extent of the protection.

The features of the inventions must be described in generally accepted terms and use generally accepted concepts. The use for this purpose of abbreviations and unconventional designations of products or substances is only allowed in cases where customary, generally accepted description is impossible or presents a problem.

At the applicant's discretion, the application may include drawings and/or other graphics facilitating the disclosure of the invention. These may be furnished as part of the description or as an independent document filed with the application. In this latter case the material is purely illustrative and cannot normally be used as a source of information for phrasing and amending the claims.

The claims define the scope of rights arising from the patent and the essence of the invention in the form in which it is disclosed in the description.

During the pendency of an application in the Eurasian Office and before the date of the examiner's decision to grant or refuse a Eurasian patent the applicant may transport information from the description to the claims (and the other way around in order to achieve consistency between the two).

During the period defined in the paragraph above, the description, claims and drawings, if any, may be amended in such a way as not to change the essence of the invention as disclosed in the description, claims and drawings (or other similar materials) of the original application.

In particular, new features may not be inserted in the claims and description with a view to generalising or concretising (narrowing the range of quantitative assessments) the subject matter's features, unless such generalising or concretising is based on the description.

Rectification of obvious errors and misprints is possible throughout the terms of the application and the patent.

Unity of invention. The Eurasian application must relate to a single invention only, or to a group of inventions so linked as to form a single inventive concept.

Unity of invention is established both before the search and on the strength of the search results.

A group of inventions may consist both of inventions relating to different subject matters (for example, a device and a process, or a substance and a process, etc.), and of inventions relating to the same subject matter, for example, alternative embodiments or inventions of which one represents the whole while the other represents a part of the whole.

Unity of invention is not breached if the claimed technical effect is achieved by inventions based on the same principle, which fact is shown in the relationship between the various features of the inventions determining the technical effect.

Thus, for instance, if the claims contain alternative embodiments and their contemplated technical effect is achieved by imparting property A to a group of features (elements), then the requirement of unity of invention is not contravened, provided that another independent claim describes an embodiment characterised by other means (features) the combination of which results in the same property A. Compliance with the requirement of unity of invention in the case of inventions consisting of a product and a process of obtaining it, does not require the process to be suitable only for obtaining the product which forms the subject of the application, or the product to be obtainable only by the process which forms the subject of the application.

Intermediate products may be claimed as separate inventions without breaching the requirement of unity of invention if the final and intermediate products have similar important structural components.

The unity of invention requirement is not contravened if the claims contain a description of intermediate and/or final products whose structure is unknown. Where this is the case, it must be demonstrated that the products have similar technical features relevant to the technical effect.

Regardless of the fact whether there is only one or several independent claims, if they characterise a single invention they cannot consist of different subject matter (for example, a device and a process, or other similar disparate combinations of subject matter) or alternative embodiments.

Description. The description must include a disclosure of the invention sufficient for it to be carried out by a person skilled in the art.

The description must indicate the technical problem which the invention solves and the way in which it has been solved.

The description should use customary terms and expressions.

Identical components should always be referred to by the same terms.

The description must include the title of the invention, which should reflect its essence and, as a rule, describe its purpose.

The title of an invention concerning an individual chemical compound should include its name according to one of the accepted systems of notation. Reference may be made to its specific use and, for biologically active substances, to the type of activity.

The title of an invention concerning a process for obtaining a substance which is a mixture of unestablished composition must include an indication of its application or of its biologically active properties.

The title of an invention concerning a micro-organism strain or a vegetable or animal cell culture must include its Latin generic and specific name, together with the type and application of the strain.

The title of an invention concerning a new application of an existing device, process, substance or strain must be composed in accordance with the rules for the

relevant item, and must describe its new application.

The title of a group of inventions concerning alternative variants, must include the title of one of the inventions with the word «Versions» in brackets.

The description should also include information about analogues known to the applicant, where necessary identifying the analogue closest to the invention.

Analogues to be included in this section can be defined as similar means and devices as that contained in the same application, which had become available to the public before the invention's priority date. A separate list must be provided giving their bibliographical references.

If the invention concerns a process for obtaining a mixture of an undefined composition, which has a specific application or biologically active properties, the cited analogue should be a process for obtaining a mixture which has the same application or the same biologically active properties.

Descriptions of analogues should concentrate on identifying the problem being solved, or the technical effect which the invention is intended to achieve.

The essence of the invention is defined by the totality of its salient features, i.e. Features which play a part in achieving the claimed technical effect (are related to it by causality). Where necessary, the account should include features which distinguish the invention from its closest analogue.

In a group of inventions, this information must be provided for each individual invention.

The description should include a list of figures, drawings and other graphical material.

The next section of the description should contain information confirming that the invention can be carried out.

Descriptions of inventions concerning devices must include the design of the device in its static state, with references to figures in drawings, followed by a description of its operation.

Descriptions concerning processes must specify the sequence of operations performed with the material object, as well as conditions, modes and means of performing them. A detailed description of at least one way of carrying out the invention is also required. Where the process uses new substances, the process of obtaining them must be disclosed.

If the invention concerns a composition, the description must include examples specifying its ingredients, their characteristics and the ratios in which they are used. If the composition uses new substances the process of obtaining them must be disclosed.

Descriptions concerning individual chemical compounds with an established structure must specify the compound's structural formula and physico-chemical constants, and describe the process of obtaining it. Use of the compound for a specific purpose must also be shown.

If the invention concerns a biotechnological process or a product thereof, involving the use of a biotechnological product which cannot be described in the patent application in such a manner as to enable the invention to be carried out by a person skilled in the art, the applicant must attach to the application's materials a document or other information proving that the micro-organism has been deposited in a depositary institution in accordance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1977 or any other depositary institution recognized by the Administrative Council not later than the filing date of the application.

If the Eurasian application contains a disclosure of an invention relating to a nu-

cleotide and/or amino-acid sequence, the description must include this sequence on a machine-readable carrier.

Instructions for the presentation of Eurasian applications materials comprising a nucleotide and/or amino-acid sequence are to be found at

<http://www.eapo.org/rus/documents/procedure.html>

Claims. A claim defines the essence of the invention, the extent of protection being sought and must be fully supported by the description. The description and drawings are meant solely for the interpretation of the claim.

A claim may comprise two clearly defined parts, a first one designating the features which the invention shares with its closest analogue or prototype (the limiting part), and a characterising part, designating the features which distinguish the invention from its closest analogue.

The claim is recognised as expressing the essence of the invention if it includes all its essential features, i.e. The features necessary to produce the technical effects claimed for the invention.

The claim need not be divided into the two sections described above, i.e. it need not contain a separate section identifying the novelty of the invention, if this way of representing it is preferable.

Furthermore, the claim need not be divided into a limiting section and a characterising section if it describes:

- An individual chemical compound;
- A biotechnological product;
- An application of an existing device, process, substance or strain;
- An invention with no analogues (a pioneering invention).

An independent claim can relate to one invention only.

The claims may include several independent claims, each corresponding to an invention in respect of which protection is sought, as well as claims dependent on them.

All dependent claims relating to the same independent claim must be grouped together sequentially to it.

Where necessary, the claim may contain references to the description, such as «as described in Part...», «as shown in Fig. ...».

One or several of the claims may be devoted to alternative embodiments of the invention.

In the first case a Markush claim may be used. A Markush claim, used, for example, to describe subject matter in the field of chemistry, may include:

- Substances with similar properties and levels of activity;
- Substances sharing an important structural element, which accounts for the similarity of their behaviour, so that the elements may be interchanged while still producing the claimed technical effect.

Eurasian patent applications may include separate claims for different things, e.g.:

- An independent claim for a device, substance or micro-organism strain and an independent claim for a process of its manufacture (preparation) and/or an independent claim for a process in which it is used;
- An independent claim for a process and an independent claim for a device used to carry it out;
- An independent claim for a device, substance or biotechnological product, an independent claim for a process specially designed for its manufacture (preparation) and an independent claim for a device specially designed to carry it out.

Abstract. The abstract will serve for information purposes, and should constitute a concise summary of the description.

It should be preceded by the title of the invention and contain a brief description of the technical field to which the invention pertains, of the state of the art and of the technical effect achieved by it. The essence of the invention should be presented as a rewording of the claim, retaining all the essential features of the invention. If necessary, the abstract may include a drawing or other explanatory matter.

Form of presentation. Eurasian applications must be filed in writing on a paper carrier.

Electronic filing is also possible using the services of Eurasian patent agents who are party to the Agreement on Electronic Exchange of Documents Related to Eurasian Applications and Patents. The list of such agents may be found on the Eurasian Office web site.

The legal status of an application filed electronically is identical to that filed in writing on a paper carrier.

3.8 WHERE TO FILE

Eurasian patent applications should be filed:

- Directly with the Eurasian Office;
- Via the national office of a state party to the Convention where this is required by national law.

At present, applicants from all states party to the Convention must file with their respective national offices. This requirement does not apply to applicants claiming priority on the grounds of a previous application or a divisional application. Where an application is filed with the Eurasian Office, the required materials may be furnished either directly to the Office, or mailed or faxed. Where the materials were sent by fax, the originals must be furnished within one month of the date of receipt of the faxed application.

PART 4. PROCEEDING FROM AN INTERNATIONAL APPLICATION TO THE REGIONAL PHASE

4.1 GENERAL

An international application filed to obtain a Eurasian patent under the PCT can be switched to the regional phase of processing by the Eurasian Office (earlier – the regional phase). To initiate this process, the applicant must furnish a number of documents to the Office (See 4.3.).

Having entered the regional phase, an international application will be treated as a Eurasian application, which, from the date of the start of its processing by the Eurasian Office, will be subject to the Eurasian patent law.

Where the applicant fails to proceed to the regional phase within the specified period of time, such application will be deemed withdrawn for the purposes of the Eurasian Patent Convention.

4.2 TIME LIMIT FOR PROCEEDING TO THE REGIONAL PHASE

The time limit for proceeding to the regional phase is 31 months from the international filing date; or the earliest priority date, where priority has been claimed.

4.3 DOCUMENTS REQUIRED FOR PROCEEDING TO THE REGIONAL PHASE

Since the Eurasian Office routinely receives copies of international applications from the International Bureau of the World Intellectual Property Organization (IB WIPO), an applicant is not normally required to send a copy of the international application to the Eurasian Office. However, where the applicant requests an early examination of his international application which has not yet been published by the IB WIPO (See 4.7.), such a copy is required.

Where priority is claimed, to proceed to the regional phase, the applicant is required furnish the following to the Eurasian Office within 31 months of the earliest priority:

- Proof of payment of the unitary administrative fee;
- A translation of the international application into Russian, if it was published in a different language;
- A request for a substantive examination and proof of payment of the substantive examination fee.

To proceed from an international application to the regional phase a special form is used – «Proceeding From an International Application to the Regional Phase of Processing by the Eurasian Patent Office Acting as Designated or Elected Office». The form (EAPB/M3) is available at

<http://www.eapo.org/rus/documents/blancs.html>.

An editable and printable version of the form is also available on the same site.

We recommend that before filling out the form you should read the Instruction posted on the same site.

Given the possibility of extending the time limits for the presentation of documents required by the Eurasian Office, an international application will be deemed as having entered the regional phase, where, prior to the expiration of the 31-month limit, the applicant has furnished at least one of the above documents or a filled-out EAPB/M3 form.

Applicants having no residence or place of employment in the territory of a state party to the Convention must furnish a power of attorney in the name of a Eurasian patent agent.

4.4

TIME LIMITS FOR THE PRESENTATION OF DOCUMENTS

Where the required documents have not been presented before the expiration of the period provided for proceeding from an international application to the regional phase, they may be presented within the following time limits.

Proof of the payment of a unitary administration fee may be furnished during two months after the expiration of the above time limit, upon payment of an additional fee equal to 20% of the initial one.

Proof of the payment of a substantive examination fee may be furnished during two months after the expiration of the above time limit, upon payment of an additional fee equal to 50% of the initial one.

The translation of an international application into Russian may be furnished during two months of the period provided for proceeding from an international application to the regional phase or during the subsequent two months upon payment of an additional fee.

Proof of the payment of a fee for every additional claim in excess of five may be furnished during two months of the period provided for proceeding from an international application to the regional phase or during the subsequent two months upon payment of an additional fee equal to 20% of the initial one.

Time limits for the presentation of the above documents in the case of a special request for an early processing of applications by the Eurasian Office are dealt with in 4.7.

The power of attorney must be furnished within two months of the date of the start of the processing of the international application by the Eurasian Office. Where the power of attorney has not been furnished within this time limit, it may be furnished, upon payment of an additional fee, within four months of the date of sending the applicant a notification about the need to furnish one.

4.5

AMENDMENT OF THE INTERNATIONAL APPLICATION WHEN PROCEEDING TO THE REGIONAL PHASE

An applicant proceeding to the regional phase is entitled to clarify or amend the claims, the description and the drawings. The changes are presented in Russian separately from other application documents. Where such amendments or clarifications are filed within two months of the date on which the Eurasian Office begins processing the international applications, no amendment fee is charged.

4.6

TRANSLATION OF INTERNATIONAL APPLICATION INTO RUSSIAN

The description, abstract, any text accompanying the drawings, in the form in which they were filed on the international filing date, as well as the application under the PCT, must be translated into Russian. We recommend you furnish the ЕАПВ/МЗ (EAPO International Application) form instead of the application under the PCT.

Where the applicant requests the Eurasian Office to begin processing on the basis of the claims amended under Article 19 of the PCT, the translation of the international application into Russian must also include the amended claims and explanations provided by the applicant under Article 19(1) of the PCT. Where no

translation of such explanations is furnished, the Eurasian Office has the right to disregard them.

Where the applicant requests an international preliminary examination, with the Eurasian Office acting as the elected office, attachments to the international preliminary examination report containing amendments to the description, claims and drawings received by an international preliminary examination authority must also be translated in addition to the above documents.

4.7

EARLY PROCESSING OF INTERNATIONAL APPLICATION

The Eurasian Office begins processing international applications only after receiving a special request from the applicant, to be furnished within 31 months of the filing date or the priority date if any.

To initiate processing before the expiration of this time limit, the applicant must file a special request and furnish documents required to enter into the regional phase.

Where on the date of the request it has not been published by the IB WIPO, the applicant must also furnish a copy of the international application certified by the receiving office.

Where no certified copy of the international application and the special request have been received, processing will only begin after the receipt of the certified copy or the transmittal of the request by the IB WIPO, provided that all required documents have been furnished.

Where the required documents have not been furnished on the date of the start of the processing of the international application by the Office, they may be furnished within the following time limits.

Proof of the payment of a unitary administrative fee must be furnished within the subsequent two months upon payment of an additional fee equal to 20% of the prescribed one.

The translation of the international application into Russian must be furnished within two months of the designated date or in the course of the subsequent two months upon payment of an additional fee.

Proof of the payment of a fee for every additional claim in excess of five must be furnished within two months of the date of the start of the processing of the international application by the Office or in the course of the subsequent two months upon payment of an additional fee equal to 20% of the prescribed one.

Proof of the payment of a fee for the substantive examination must be furnished within six months of the international publication of the application and the international search report, or, where the above six months have already expired, of the date of the start of the processing of the international application by the Office.

Where proof of the payment of a fee for the substantive examination has not been furnished within the prescribed time limit, it may be furnished in the course of the two subsequent months upon payment of an additional fee equal to 50% of the prescribed amount.

4.8

THE NUMBER OF COPIES

The international application documents are furnished in triplicate, plus a copy of proof of the payment of fees and a copy of the power of attorney.

Where the international application had been published in Russian and was not amended during entry of the regional phase, its documents are furnished in duplicate.

PART 5. START OF PROCESSING

5.1 FILING OF APPLICATIONS

Where a Eurasian application is filed with the national office of a state party to the Convention, it verifies the presence of all documents and information required to determine the filing date, as well as materials described in the attachment to the request.

If the application is in order, the national office determines the filing date and, upon payment of a fee for the formality check and transmittal, sends three copies of the application to the Eurasian Office. Then the national office notifies the applicant of the determination of the filing date and the transmittal of the application to the Eurasian Office.

Where a Eurasian application has to be filed by the applicant from a state party to the Convention with the national office of this state but, in breach of this requirement, has been filed directly with the Eurasian Office, the latter transmits the Eurasian application to the national office and notifies the applicant to this effect.

Upon receipt of such an application from the Eurasian Office, the national office determines its filing date as the date of its receipt by the Eurasian Office. Subsequently, this application is processed as a Eurasian application filed with a national office.

5.2 CONFIRMATION OF RECEIPT OF EURASIAN APPLICATION MATERIALS

Upon receipt of Eurasian application materials, the Eurasian Office sends the applicant a notification containing the following: the filing date (if it was determined), its registration number, time limits for the furnishing of documents required to start a formal examination where such documents have not been furnished at the time of filing.

If the applicant filed directly with the Eurasian Office, an additional copy of the request or a covering letter with the date of the receipt of application materials, the incoming number of the application and the number of pages received may be sent back to him at his request.

5.3 FILING DATE

The date of filing of a Eurasian application is determined by the national office or the Eurasian Office as the date of its receipt by the respective office provided that the documents submitted by the applicant on that date include:

- A statement that the grant of a Eurasian patent is being requested;
- Indications about the applicant's identity;
- A section (of the application) that has the appearance of a description.

If the application fails to meet these requirements, the office immediately informs the applicant to this effect and invites him to furnish missing documents and indications within four months of sending such a notification.

For the purposes of the filing date determination the description of the invention can be replaced by a reference to an earlier application filed by the ap-

plicant provided that within a period of four months from the receipt of the Eurasian application by the national or Eurasian office a certified copy of the earlier application and its translation into Russian, if it was drawn up in a language other than Russian, are furnished.

Absence of the claims in the filed application materials presents no obstacle to the determination of the filing date. The claims furnished after the grant of the filing date must be based on the description in the form in which it was furnished on the filing date.

5.4 FEES

All procedures relating to the filing, processing and publication of a Eurasian application, as well as the grant, publication and maintenance of a Eurasian patent involve the payment of a fee.

Most fees relating to a Eurasian application or a Eurasian patent, as well as all payments for services provided by the Eurasian Office, are payable to the Eurasian Office. A schedule of fees and the payment procedure are to be found in «Statute of Fees of the Eurasian Patent Organisation» at <http://www.eapo.org/rus/documents/poshlina.html>. The list of services provided by the Eurasian Office and the respective fees may be found on the Office's web site ("Procedure for the Provision of Services and Respective Fees").

The formal examination and the transmittal fee is payable to the national Office where the Eurasian application was filed.

The unitary administrative fee is payable to the Eurasian Office regardless of the fact whether the application was filed with the Eurasian Office directly or via the national office which transmitted it to the Eurasian Office.

Applicants from the Convention member-states pay 10% of the fees below.

Applicants from states that are not party to the Convention but which are eligible for a temporary concessional tariff (the list of these states is to be found on EAPO's web site) pay 20% of the fees.

The following main fees are payable for filing a Eurasian patent application:

- A unitary administrative fee of 25500 roubles;
- An additional fee of 2200 roubles for every additional claim in excess of five.

The following fees are payable for the substantive examination:

- 25500 roubles, where one invention is claimed;
- 25500 roubles and an additional 19000 roubles, where a group of inventions are claimed.

The fee for grant of a Eurasian patent and its publication is 16000 roubles payable by the applicant.

Proof of payment is a document (such as a copy of the payment order, a receipt from a savings bank or another credit institution), duly certified by the Eurasian Office's bank or a bank in one of the States party to the Convention with which the Eurasian Office's bank has a correspondent relationship.

The proof of payment must be presented to the Eurasian Office within three months of the date of issue.

If the amount actually paid by the applicant is greater than the required fee or the fee has been paid for a procedure not actually performed the applicant is eligible for a refund, payable to him at his request.

At the applicant's request the refund can go toward his other fees or payment for other services rendered by the Eurasian Office.

Where the fixed fees or payments have not been paid no actions shall be performed.

PART 6.

THE GRANT OF A PATENT



6.1

GENERAL

After the determination of the filing date the Eurasian patent application is subjected to a formal examination performed by the Eurasian Office, and if this is satisfactory, a search is performed. This part of the procedure ends with the publication of the application and the search report.

The substantive examination can be undertaken only at the applicant's request. The substantive examination of the application and the analogues identified by the search are examined by Boards, each consisting of at least three examiners who are staff members of the Eurasian Office and citizens of different states party to the Convention. The outcome of the substantive examination is the decision to grant or refuse a patent. The decision to grant is followed by the delivery of the patent and its publication.

In the case of disputes regarding a refusal to grant a patent or the validity of a granted patent an opposition procedure may be initiated before the office.

6.2

FORMAL EXAMINATION

Formal examination of a Eurasian patent application, including an application received from a national Office, is carried out after the filing date has been accorded, provided proof of payment of the unitary administrative fee has been presented, and application documents in Russian and a power of attorney, if the applicant is taking action before the Eurasian Office through an agent, have been furnished. The following will be checked in the course of the formal examination:

- Correct presentation of the application documents;
- Compliance with the requirements regarding filing and taking action before the Eurasian Office by applicants who have no residence or principal place of business in a state party to the Convention;

- Correct presentation of the description and the claims, including the case when the application claims a group of inventions;
- Correct classification of the invention in accordance with the International Patent Classification;
- Lawful and proper claims to priority;
- Patentability (See 2.1.).

If necessary, the applicant may be advised to correct the deficiencies of the application within the time limit specified by a national office or the Eurasian Office and/or furnish missing documents.

For example, if unpatentable subject matter (see 2.1.) Features as a claim in a group of inventions, the applicant may be advised to eliminate it from the claims. If the applicant is advised to correct the deficiencies in the application, the time taken to complete the formal examination will be extended as appropriate.

If the deficiencies have not been corrected within the specified time limit, or documents missing at the time of filing have not been provided, the application is deemed to be withdrawn and the applicant is notified accordingly.

If an application fails to satisfy the requirement of patentability the Board decides to refuse the grant of a Eurasian patent.

The applicant may initiate an appeals procedure within three months of a decision to refuse the patent grant.

If the furnished application materials meet the above requirements, the applicant will be notified of the positive outcome of the formal examination.

6.3

PATENT SEARCH AND DRAWING UP OF A SEARCH REPORT

The Eurasian patent application search is conducted on the basis of the claims with due regard to the description and, where necessary, additional materials.

The purpose of the search is to establish the state of the art, which is then used to assess the patentability, namely industrial applicability, novelty and inventive step of the invention.

After the search report has been drawn up, the Eurasian Office transmits it to the applicant.

At the applicant's request, and upon payment of the prescribed fee, the search report may be accompanied by copies of documents relating to the subject matter of the patent search, except for copies of applications which have not been published.

6.4

PUBLICATION OF THE EURASIAN PATENT APPLICATION

A Eurasian patent application is published by the Eurasian Office after the expiration of a period of 18 months from the date of filing or, if priority has been sought, from the date of priority. It may however be published earlier at the applicant's request upon payment of an additional fee.

The Eurasian patent application will not be published if it has been withdrawn or has been deemed to be withdrawn, or if it has been deemed not to have been filed, within a period of two months before the anticipated date of publication.

The published version of the Eurasian application contains:

- The title page containing bibliographical information;
- The abstract;

- The description;
- The claims;
- Drawings and other materials illustrating the claimed invention;
- The search report.

If the search report is published separately, a title page containing the bibliographical data, including the date of publication of the search report, will be attached to it.

If the publication of the international application and the international search report were in a language other than Russian, after the international application has entered the regional phase the Eurasian Office will publish its translation into Russian and mention of the publication of the international search report.

If the publication of the international application and the international search report were in Russian, after the international application has entered the regional phase the Eurasian Office will only publish information about such publication. The publication of the Eurasian application and the patent search report is carried out in written form (on paper carrier) and/or in electronic form.

6.5 SUBSTANTIVE EXAMINATION

Request for substantive examination. The Eurasian Office will carry out a substantive examination at the request of the applicant, which must be filed with the Eurasian Office within a period of six months from the date of publication of the Eurasian application, or, if the search report was published separately, from the date of its publication.

If the request has not been filed within the six-month period, it may be filed within two months of its expiration, provided that the time limit was missed for a valid reason and that an additional fee has been paid. If no request has been received within the above time limit, or if the substantive examination fee has not been paid, the application will be deemed to have been withdrawn.

With regard to international applications filed with the Eurasian Office acting as the designated or elected office the request for substantive examination must be filed before the expiration of the time limit for the start of the international application examination in the regional phase.

The Eurasian Office will notify the applicant that a request has been received and whether it has been granted or refused. The notification concerning the request will be sent to the applicant after the successful completion of the formal examination.

The date of the former notification shall be the date of the start of the substantive examination.

Substantive examination of a Eurasian application. The aim of the substantive examination is to establish the patentability of the invention covered by the application.

The guiding principle of the substantive examination should be the collection of the greatest possible amount of information capable of influencing the objectivity of the decision in any way. If necessary, this can include consultations with the applicant.

In assessing industrial applicability, it is first established whether the invention as it is characterised in the claims can be implemented by a person skilled in the art, such implementation being usually reflected in the title of the invention, and the desired technical effect achieved (the description) by the means described in the application or available in the prior art.

If there is reasonable doubt that the claimed effect can be achieved by the means

specified in the application, the examiner may invite the applicant to furnish additional explanations and justifications.

In assessing industrial applicability the examination must establish that the technical effect claimed for the invention in the description can in principle be achieved. Assessment of the novelty of an invention consists in checking that it does not form part of the state of the art. This check includes all the features included in the independent claim.

The novelty check also includes the identification of analogues of the invention, i.e. assets designed for the same purpose and characterised by features similar to those of the invention.

An invention will not be deemed to be new if the state of the art is found to include an item whose features are identical to all the features included in the claims.

An invention will be deemed to be new if none of its identified analogues has a totality of features identical to those in the independent claim.

Assessment of the inventive step includes the following checks:

- Identification of the invention's closest analogue;
- Identification of the features which distinguish the invention from its closest analogue (prototype);
- Identification in the state of the art of solutions characterised by these distinguishing features individually or in combination, including in combination with known features.

The following inventions are not deemed to include an inventive step because it is obvious to a person skilled in the art that they are extensions of the state of the art:

- Those where a known device is augmented by one or more known components, attached to it in accordance with known principles, in order to achieve a technical effect which is known to rely specifically on such additions;
- Those where one or more components of a known device are replaced by another known component in order to achieve a technical effect which is known to rely specifically on such a replacement;
- Those where a component (components) of a device is (are) eliminated, the associated function being eliminated without producing any new effect;
- Those where the number of identical elements or actions is increased in order to amplify a technical effect which relies on the presence of specifically those elements or actions;
- Those where a known device or one or more of its components are made from a known material in order to achieve a technical effect which relies on the known properties of that material.

In deciding whether the invention's features distinguishing it from those known from the state of the art are obvious to a person skilled in the art, the following factors may have a positive effect on the assessment of the inventive step:

- The invention fulfils a long-standing need;
- The invention solves a complex problem (as confirmed by the number and cost of past experiments or failure of previous attempts to solve it by persons skilled in the art);
- The invention has helped overcome the mistrust and scepticism of persons skilled in the art concerning the likelihood of the problem ever being solved.

An invention will be deemed to contain an inventive step if research of the state of the art fails to establish a known causal relationship between the anticipated technical effect and the means proposed for achieving it.

If it has been established that an invention covered by a Eurasian patent application is patentable, the Eurasian Office will decide to grant a Eurasian patent.

Prior to the grant, the examining Board will inform the applicant that a patent may be granted for the invention (a group of inventions) in the form in which it (they) has (have) been characterised in the original or modified claims. This notification will also inform the applicant about the wording of the description in the publication, the amount of the fee and the time limit for its payment.

The establishment of the patentability of a process used to obtain a product shall not mean that the product itself is patentable.

The claims may not include an item (claim) characterising a known or unpatentable product in terms of its relation to a process.

If substantive examination has established that the invention does not meet at least one of the requirements of patentability, the application will be refused.

6.6 APPEAL PROCEDURE

Lodging an appeal. An applicant disagreeing with the Eurasian Office's refusal of an application may appeal against it within three months of the date of the notification of refusal.

Procedure before the board. An applicant's appeal against a Eurasian Office decision concerning refusal to grant a Eurasian patent must be heard within four months of the appeal being lodged. The appeal must be heard by a Board of the Eurasian Office, consisting of three examiners, who must be staff members of the Eurasian Office and, normally, citizens of different states party to the Convention. The Board must include at least two examiners who were not involved in reaching the contested decision. In complex cases, the President of the Eurasian Office may decide to extend this period.

The applicant is entitled to participate in the hearings.

A ruling on an appeal against a Eurasian Office decision, confirmed by the President of the Eurasian Office, is final.

6.7 THE APPLICANT'S RIGHTS IN THE EXAMINATION PROCEDURE

At the examiner's invitation, the applicant may participate in the discussion of issues arising in the course of the examination.

The applicant has the right to study opposing documents put forward by the examiner. If his request for copies of the opposing documents is made within three months of the date on which the Board's notification containing references to the opposing documents were transmitted to him, the time limit for responding to the notification shall be computed from the date of such transmittal.

At any stage in the processing of a Eurasian application the Applicant may appeal to the President of the Eurasian Office against the actions of the examining Board.

Submission of additional materials. Extension of time limits. The applicant may amplify, clarify or amend Eurasian patent application documents in the course of the examination until such time as the technical preparations for publication are completed. He may do so either of his own volition, or at the examiner's request, provided that the essence of the invention is not thereby changed.

The applicant may make changes and amendments of his own volition on payment of an additional fee.

Additional materials requested by the examiner should be submitted within four months of the date of the request.

This time limit may be extended at the applicant's request, submitted before its expiration, or within two months of its expiration on payment of an additional fee. A request for a further extension of the latter must be accompanied with the information and/or materials requested by the examiner.

If the applicant fails to submit the additional materials within this time limit, or fails to respond to the examiner's request to do so, the application is deemed to be withdrawn, and a notification to that effect will be sent to the applicant.

Withdrawal of a Eurasian application. A Eurasian application may be withdrawn by the applicant at his own request, which must be filed with the Eurasian Office not later than the date of registration of the Eurasian patent.

Divisional Eurasian application. The applicant may file a divisional Eurasian application if the original Eurasian application filed by him contained other inventions. The divisional Eurasian application will have the filing date and, where appropriate, the priority date of the original Eurasian application from which it was divided. A divisional Eurasian application may only be filed with respect to inventions disclosed in the original application and information about the invention in the divisional application does not go beyond the scope of that in the original application. The description of the invention in a divisional application must not contain information unrelated to the claimed inventions.

A divisional Eurasian application may only be filed if the original application has not been withdrawn or is not deemed to have been withdrawn, or if such divisional application has been filed before the registration date of the Eurasian patent granted with respect to the original application, or, where a decision has been made to refuse the grant of a Eurasian patent — before the exhaustion of the possibility to appeal the refusal.

6.8

THE PUBLICATION AND GRANT OF A EURASIAN PATENT

Eurasian patents granted by the Eurasian Office are registered in the Eurasian Patent Register with numbers assigned to them.

The publication of a Eurasian patent takes place within six months of the date of its registration. It consists of the publication of information about the granted patent in the Eurasian Patent Office Gazette «Inventions (Eurasian Applications and Patents)» (hereinafter: Eurasian Office Gazette) and a separate publication of the certificate of protection including the description, the claims and other documents. In addition to the publication of the Eurasian patent on paper, the Eurasian Office produces a CD-ROM including a title page with bibliographic data, the description, the claims and other documents.

The EAPO Gazette is published both in written and electronic form.

The patent grant date shall be the date of publication in the Eurasian Office Gazette.

Eurasian patents are granted by the Eurasian Office on payment of the grant and publication fees.

Information from the Eurasian Office Register about patents granted is to be found at <http://eapo.org/rus/reestr/>. A single Letters Patent is issued regardless of the number of joint patentees.

Upon publication a single copy of the patent is handed over to the patent owner or his agent.

If the fees are not paid, the Eurasian patent is not granted or published and the application is deemed to be withdrawn.

6.9 RESTORATION OF RIGHTS

Rights in a Eurasian application or a Eurasian patent lost as a result of failure to observe time limits specified for procedural actions may be restored at the request of the applicant or patentee, provided that it has been established that the delay occurred in spite of their diligent effort.

The restoration of rights in a Eurasian application or a Eurasian patent is subject to the payment of an additional fee.

A request for the restoration of rights in a Eurasian application may be made within at least twelve months of the expiration of the time limit specified for the procedural action in question, or at least two months after the removal of the cause of the delay at the discretion of the applicant depending on which of the two terms expires later. What is more, the procedural action must have been performed by the date of the filing of the request.

The restoration of the right in a Eurasian patent is only applicable to patents, rights with respect to which were lost after 28 February 2002, in States party to the Convention whose national law provides for restoration of patent rights.

A request for the restoration of rights in a Eurasian patent lapsed as a result of non-payment or late payment of a maintenance fee may be made by the patentee before the expiration of three years from the date corresponding to the filing date of the Eurasian application, when such maintenance fee was due to be paid. Such restoration of rights is possible in one or more States party to the Convention where the Eurasian patent was valid at the above date. A request for the restoration of rights in a Eurasian patent must contain a designation of each of the States party to the Convention with respect to which the revival of the patent is sought.

The procedure for the restoration of rights in a Eurasian patent is described in Instructions for Patent Owners and their Agents Regarding Restoration of Right in a Eurasian Patent, to be found at <http://www.eapo.org/rus/documents/application.html>.

The following rights cannot be restored:

- Priority right lost as a result of failure to observe the time limits for filing a subsequent Eurasian application requesting the priority of the date of filing of the former application, furnishing of additional materials or the start of the public showing of an asset containing the invention at an official or officially recognised international exhibition; and priority right lost as a result of failure to furnish a notarised copy of the former application within a specified period of time;
- Right in a Eurasian patent lost as a result of failure to observe the time limit for the payment by the patent owner of an additional annual fee for the grant of an additional six-month grace period for such payment;
- Right of appeal against the grant of a Eurasian patent under an administrative patent revocation procedure, lost as a result of failure to observe the time limit for lodging such an appeal.

6.10 SURRENDER OF A EURASIAN PATENT

The owner of a Eurasian patent may surrender it in states party to the Convention designated by him by notifying the Eurasian Office in writing and paying the prescribed fee. Such surrender cannot be limited to one or more of the claims.

6.11 REVOCATION OF A EURASIAN PATENT

The revocation of a Eurasian patent under an administrative procedure may be initiated on the strength of an objection filed with the Eurasian Office within six months from the date of publication of the mention of the grant of a Eurasian patent, provided that it has been established that it was granted in breach of Eurasian patent law.

A Eurasian patent may be revoked in part or in full under an administrative revocation procedure in the following cases:

- The invention does not meet patentability requirements;
- The claim contains features not included in the original application documents.

Objections against the grant of a Eurasian patent will be considered by the Eurasian Office within six months of their receipt.

A Eurasian patent (or part thereof) revoked as a result of an administrative procedure shall be deemed invalid in all the states party to the Convention from the filing date of the Eurasian application.

The administrative revocation procedure may result in a decision by the Eurasian Office to revoke the patent, to reject the objection or to amend the patent.

Such decisions may be contested by interested parties in an appeal procedure before the President of the Eurasian Office within a period of four months from the date on which they were taken.

If this is the case the President of the Eurasian Office will consider the appeal and either initiate a review of the objection by a review board or make a final decision himself.

The rules for lodging and processing objections against patent grant under an administrative procedure are to be found at

<http://www.eapo.org/rus/documents/objection.html>.

6.12 INVALIDATION OF A EURASIAN PATENT

Any dispute arising from the validity, in a given state party to the Convention of a Eurasian patent shall be resolved by the competent authorities of that state on the basis of the Convention and the Patent Regulations in accordance with procedures prescribed by national law.

A Eurasian patent may be wholly or partially invalidated throughout the term of its validity in the following cases:

- The invention does not meet patentability requirements;
- The claim contains features not included in the original application documents;
- The inventor or the patentee are wrongly indicated.

When a Eurasian Patent has been partially invalidated, the Eurasian Office will publish information about the change in its legal status, introducing the appropriate restrictions, which can include modification of the claims, description and drawings, where this is permitted under the national law.

The decision of a competent authority (competent authorities) to invalidate a Eurasian patent shall have effect only in the territory of the state party to the Convention whose authority made such a decision.

6.13 INFRINGEMENT OF A EURASIAN PATENT

Infringement of an owner's exclusive patent rights is defined as the unauthorised performance of the following acts:

- The making, use, import, offering for sale, sale or any other form of marketing or storage for that purpose of a product protected by a Eurasian patent;
- The use of a process protected by a Eurasian patent or the offering thereof for such use;
- The use, import, offering for sale, sale or any other form of marketing or storage for that purpose of a product directly obtained by a process protected by a Eurasian patent.

Infringement of a Eurasian patent in a state party to the Convention entails civil or other liability identical to that provided by the national law for infringement of a national patent.

Protection of an owner's exclusive patent rights includes the following remedies:

- The suppression of acts infringing the right or threatening to infringe it;
- Award of damages;
- Compensation for moral injury;
- Any other remedies provided by the legislation of the state party to the Convention.

6.14 MAINTENANCE OF A EURASIAN PATENT

A granted Eurasian patent is valid in all states which are party to the Convention at the date of the filing of the application with the Eurasian Office. There is no provision for extending the geographical scope of a Eurasian patent.

The maintenance of a Eurasian patent is subject to the payment of an annual fee in the month having the same name and the day having the same number as the filing date of the application. The amount of the fee is the sum total of annual maintenance fees in all the designated states party to the Convention.

Annual maintenance fees are payable to the Eurasian Office, which transmits the amounts paid to states party to the Convention in which the patent is valid.

Subsequent validity of a Eurasian patent covers the states party to the Convention States designated by the patentee. States in which the patentee intends to maintain a Eurasian patent are designated by him at the moment of paying the annual fee.

The start of the payment of annual fees differs from state to state.

In the Republic of Azerbaijan, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan annual maintenance fees are payable starting from the third year of a Eurasian patent's validity. In the Republic of Armenia they are payable from the second year. In the Republic of Moldova and Turkmenistan they are payable from the first year.

At the owner's request the payment of the fee may be arranged in stages corresponding to designated states, but within the overall period provided for the purpose.

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 state party to the Convention, the amount actually due shall include the fee 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 first annual fee falls due is less than two months, the fee may be paid within a period

of two months after the month having the same name and the day having the same number as the filing date of the Eurasian application.

It is still possible to pay the annual maintenance fee within a period of six months after the date corresponding to the filing date. Where this is the case, a 50% surcharge is added to the fee.

The States party to the Convention schedules of fees are to be found at <http://www.eapo.org/rus/documents/tabposh.html>.

A request for maintenance of a Eurasian patent may be filed on line at: http://www.eapo.org/rus/reestr/pay_request.php.

6.15 TRANSFER OF RIGHTS IN A EURASIAN APPLICATION AND A EURASIAN PATENT

Rights in a Eurasian application and a Eurasian patent may be transferred by means of cession, succession in title (restructuring of a legal entity, inheriting) or other means.

Where this is the case, the Eurasian application and the Eurasian patent may be the subject matter of cession or succession only in the totality of the states party to the Convention.

The transfer of rights in a Eurasian application or a Eurasian patent is effected in the form of an agency agreement or a similar document. Such agreements will become valid in respect of third parties only after their registration with the Eurasian Office upon payment of a fee.

Rights in a Eurasian application or a Eurasian patent may be used as security (collateral) in states party to the Convention whose national law contain a provision to that effect.

At the request of an interested party the Eurasian Office may register rights in a Eurasian application or a Eurasian patent used as collateral upon payment of a fee.

Licensing agreements involving Eurasian patents are registered in accordance with national law in states party to the Convention in which the patents are valid. National offices inform the Eurasian Office about such registrations on a quarterly basis.

Information about transfer of rights in Eurasian applications and Eurasian patents is included in the Eurasian Patent Register and mention of the fact is published in the Eurasian Office Gazette.

The Eurasian Office publishes similar information regarding licensing agreements involving Eurasian patents registered by national offices of states party to the Convention.

The current legal status of Eurasian patents is available at:
<http://www.eapo.org/rus/reestr/>.

6.16 TERMINATION OF A EURASIAN PATENT

A Eurasian patent may lapse:

- At the owner's request, filed with the Eurasian Office;
- Through failure to pay the maintenance fee within the specified time limit.

A Eurasian patent may be terminated as from the date of filing of a Eurasian application in the following circumstances:

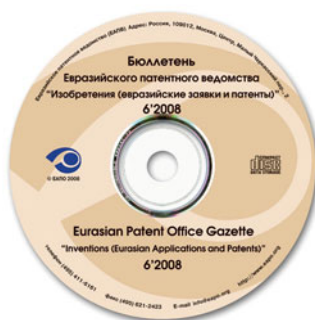
- If it is revoked as a result of an administrative revocation procedure;
- If it is invalidated by the decision of a national court or another competent authority in a state party to the Convention, applicable in that State.

PART 7. EURASIAN OFFICE PUBLICATIONS

7.1 OFFICIAL PUBLICATIONS

The following Eurasian Office publications are available to subscribers:

1. **CD-ROM “EAPO Gazette “Inventions (Eurasian Applications and Patents)”**
(Subscription Index 88773).



Issued from 2007, it is available on CD-ROM and is posted on the EAPO web site. It contains bibliographic, synoptic, legal and other reference information. Materials in the Gazette are considered to have been officially published. Six cumulative CD-ROMs with search software attached are brought out every year. The documents are provided with hyperlinks to complete descriptions that may be downloaded from the database of the Eurasian Patent Information System EAPATIS. You can find the electronic version of the Gazette at:
<http://www.eapo.org>.

2. **CD-ROM “Eurasian Applications: Descriptions of Inventions”**
(Subscription Index 88774).



It contains title pages with bibliographic data and complete texts of descriptions in Eurasian applications in the html and pdf formats. Subscribers to this bi-monthly CD-ROM are also entitled to a free CD-ROM “ Eurasian Applications and Patents. A Cumulative Index”.

3. CD-ROM “Eurasian Patents: Descriptions of Inventions”.
(Subscription Index 88775).



It contains title pages with bibliographic data and complete texts of descriptions in granted Eurasian patents in the html and pdf formats. Subscribers to this bi-monthly CD-ROM are also entitled to a free CD-ROM “Eurasian Applications and Patents. A Cumulative Index”.

4. CD-ROM “Legislative, legal, methodological and reference documents of the Eurasian Office”.



It contains all legislative, legal, methodological and reference documents, the Eurasian Patent Convention included, regulating the activities of the Eurasian Patent Organization and the Eurasian Office, as well as other information relating to the operation of the Eurasian patent system. The disc contains a search engine and is being brought out twice a year.

5. CD-ROM “Eurasian Applications and Patents. A Cumulative Index”.



It contains information about all applications and patents registered between 1 January 1996 and the date of issue of the latest disc. It also contains html systematic and numeric indexes, pdf title pages of descriptions of inventions in Eurasian patents, a search engine and a database of instruments of protection granted by the EAPO. The cumulative disc comes out twice a year and is a handy tool for accessing EAPO's files.

6. The Annual Report.



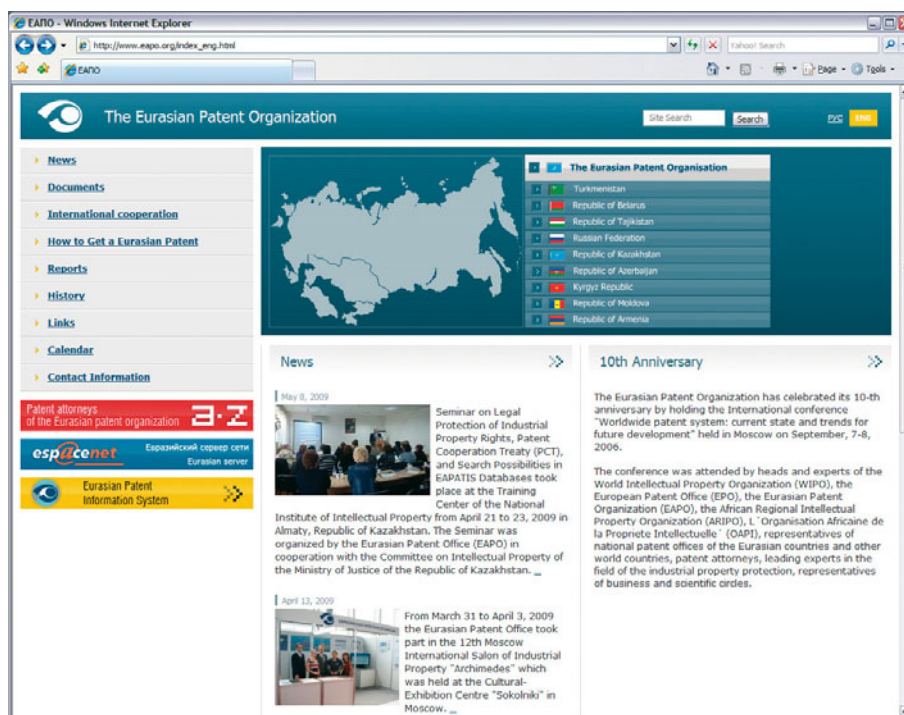
It illustrates Office's activities and achievements over the past year.

7.2

PATENT INFORMATION SERVICES

The Eurasian web portal.

Current information about the activities of the Eurasian Office and the EAPO may be found at: <http://www.eapo.org>. The Eurasian web portal includes the Eurasian Office web site, the websites of the national patent offices of states party to the Convention and data bases. It has a number of interactive features. The English and Russian sections of the portal feature general information about EAPO and its activities, as well as the Eurasian Office's contact and bank routing information. Other features include news, EAPO regulatory documents and information about other states party to the Convention. There are links to the sites of other patent organisations.



There are daily updates of the database, accessible for national patent offices, on the status of Eurasian patents in every state party to the Convention. Materials in free access include the Register of Eurasian Patents, updated on a weekly basis, and a database of patent attorneys.

The portal also features editable forms of Eurasian applications and requests, including maintenance of patents, restoration of patents and the payment of a maintenance fee, as well as a system for computing fees.

The “EAPO Official Publications” site contains electronic versions of the Bulletin “Inventions (Eurasian Applications and Patents)” from 2006 on, as well as the Office’s annual reports. Users may also access complete descriptions of the published Eurasian applications and patents arranged in numerical order.

The Eurasian Patent Information System (EAPATIS)

This information and search system, developed by the Office, gives users access to the international, regional and national files of patent documentation. It may be found at: <http://www.eapatiss.com>, and (www.eapo.org).

EAPATIS supports over 40 constantly updated patent information databases, which at the beginning of 2008 contained over 30 million patent documents, including files of international organizations and PCT minimum documentation states (WIPO, EPO, the US, UK and German national offices, etc.). Russian-language files include materials from the EPO and Russia (with retrospective files since 1924), the national patent offices of states party to the Convention and other countries in the Eurasian region.

EAPATIS may be used to conduct thematic, numeric and title searches, as well a meta-search in external digital intellectual-property libraries and free-access web sites such as esp@cenet, EPOLINE, JOPAL, USPTO database.

The national offices of states party to the Convention, as well as those of Ukraine, Uzbekistan and Georgia have access to the totality of the system's search engines, service features and databases.

The system has been in free use since mid-September 2005. Users may conduct selected types of patent search, view patent bibliographies and synopses of abstracts, link to other free-access information sources in the web for complete descriptions of patent documents, as well as published Eurasian applications and patents.

EAPATIS services requiring payment are provided on the basis of a contract with the Eurasian Office.

Patent information network esp@cenet

The Eurasian Office is contributing information about all publications of patent documents to esp@cenet (www.espacenet.com), the world's largest and most popular free-access source of patent information. Information about granted Eurasian patents is translated into English.

The Office's server ea. Espacenet. Com stores information about Eurasian patent documents in Russian.

Information freely available to a very wide range of users is a boon for patent-owners and a stimulus for business activity and investment in the countries and regions taking part in the esp@cenet project.

The screenshot shows the 'esp@cenet Advanced Search' page in a Windows Internet Explorer browser. The address bar shows the URL: <http://ea.espacenet.com/search97cgi/s97.cgi.exe?Action=FormGen&Template=ea/en/advanced.htm>. The page has a navigation menu on the left with links: Home | Contact, Russian, English, Quick Search, Advanced Search, Number Search, Last Results list, My patents list (0), Classification Search, and Help. The main content area is titled 'Advanced Search' and is divided into two sections: '1. Database' and '2. Search terms'. In the '1. Database' section, there is a dropdown menu for 'Database' set to 'Worldwide'. In the '2. Search terms' section, there is a table for entering keywords and other search criteria. The table has columns for 'Keyword(s) in title (in English)', 'Keyword(s) in title or abstract (in English)', 'Publication number', 'Application number', 'Priority number', 'Publication date', 'Applicant', 'Inventor', 'European Classification (ECLA)', and 'International Patent Classification (IPC)'. The table contains the following data: 'plastic AND bicycle' in the first column, 'hair' in the second column, 'WO03075629' in the third column, 'DE19971031696' in the fourth column, 'WO1995US15925' in the fifth column, 'yyyymmdd' in the sixth column, 'Institut Pasteur' in the seventh column, 'Smith' in the eighth column, 'F03G7/10' in the ninth column, and 'H03M1/12' in the tenth column. At the bottom of the table are 'SEARCH' and 'CLEAR' buttons.

2. Search terms									
Enter keywords (Russian/English)									
Keyword(s) in title (in English):		plastic AND bicycle							
Keyword(s) in title or abstract (in English):		hair							
Publication number:		WO03075629							
Application number:		DE19971031696							
Priority number:		WO1995US15925							
Publication date:		yyyymmdd							
Applicant:		Institut Pasteur							
Inventor:		Smith							
European Classification (ECLA):		F03G7/10							
International Patent Classification (IPC):		H03M1/12							

7.3

INFORMATION IN EURASIAN OFFICE PUBLICATIONS

The Eurasian Office publishes an official Eurasian Office Gazette.

Materials printed in it include:

- Information about Eurasian applications filed with the Eurasian Office and international applications that have entered the regional phase;
- Information about Eurasian patents granted;
- Information about amendments to Eurasian applications and patents;
- Information about changes in the legal status of Eurasian applications and patents;
- Search reports with respect to Eurasian applications;
- Schedules of fees payable for the grant and maintenance of a patent, including maintenance fees in States party to the Convention;
- Tariffs for services provided by the Eurasian Office;
- Information about registration of transfer of rights in a Eurasian application or patent and licensing agreements registered by national offices where such agreements involve Eurasian patents;
- Information about Eurasian patent agents;
- Regulatory documents of the EAPO and the Eurasian Office, and their updates;
- Information about EAPO and its Administrative Council activities;
- Statistics and other data regarding Eurasian Office activities.

The Eurasian Office also produces CD-roms with complete texts of filed Eurasian applications, Eurasian patent descriptions and EAPO regulatory documents.

7.4

USE OF EURASIAN PATENT INFORMATION

Eurasian patent information may be used to:

- Create inventions and collect proof of their patentability; to ensure the competitiveness and protection against infringement of products and processes containing these inventions in the 9 countries party to the Convention;
- To ensure legal protection of such inventions in these states in accordance with the national and Eurasian procedures;
- To rule out such products and services falling under the operation of Eurasian patents granted to other persons and thus damaging the economic and other vital interests of their developers and manufacturers.

PART 8.

ADDENDUM

LIST OF STATES PARTIES TO THE PARIS CONVENTION ON THE PROTECTION OF INDUSTRIAL PROPERTY ELIGIBLE FOR REDUCTIONS IN FEES IN ACCORDANCE WITH THE OFFICIAL WIPO PUBLICATION AS OF 30 APRIL 2008
(http://www.wipo.int/pct/en/fees/fee_reduction.pdf)

- | | |
|----------------------------|-----------------------|
| 1. Albania | 31. Dominica |
| 2. Algeria | 32. Ecuador |
| 3. Angola | 33. Egypt |
| 4. Argentina | 34. El Salvador |
| 5. Armenia | 35. Equatorial Guinea |
| 6. Azerbaijan | 36. Estonia |
| 7. Bangladesh | 37. Gabon |
| 8. Belarus | 38. Gambia |
| 9. Belize | 39. Georgia |
| 10. Benin | 40. Ghana |
| 11. Bhutan | 41. Grenada |
| 12. Bolivia | 42. Guatemala |
| 13. Bosnia and Herzegovina | 43. Guinea |
| 14. Botswana | 44. Guinea-Bissau |
| 15. Brazil | 45. Guyana |
| 16. Bulgaria | 46. Haiti |
| 17. Burkina Faso | 47. Honduras |
| 18. Burundi | 48. Hungary |
| 19. Cambodia | 49. India |
| 20. Cameroon | 50. Indonesia |
| 21. Chad | 51. Iran |
| 22. Chili | 52. Iraq |
| 23. China | 53. Jamaica |
| 24. Colombia | 54. Jordan |
| 25. Congo | 55. Kazakhstan |
| 26. Costa-Rica | 56. Kenya |
| 27. Cote d'Ivoire | 57. Kyrgyzstan |
| 28. Croatia | 58. Laos |
| 29. Cuba | 59. Latvia |
| 30. Djibouti | 60. Lebanon |

61. Lesotho

62. Liberia

63. Lithuania

64. Macedonia

65. Madagascar

66. Malawi

67. Malaysia

68. Mali

69. Mauritania

70. Mauritius

71. Mexico

72. Moldova

73. Mongolia

74. Montenegro

75. Morocco

76. Mozambique

77. Namibia

78. Nepal

79. Nicaragua

80. Niger

81. Nigeria

82. Pakistan

83. Panama

84. Papua-New Guinea

85. Paraguay

86. Peru

87. Philippines

88. Poland

89. Romania

90. Russia

91. Rwanda

92. Sao Tome and Principe

93. Senegal

94. Serbia

95. Sierra Leone

96. Slovakia

97. South Africa

98. Sri Lanka

99. St Kitts and Nevis

100. St Lucia

101. St Vincent and the
Grenadines

102. Sudan

103. Swaziland

104. Syria

105. Tajikistan

106. Tanzania

107. The Central African Republic

108. The Comoro Islands

109. The Czech Republic

110. The Democratic Republic of
Congo

111. The Dominican Republic

112. The Korean People's
Democratic Republic

113. Togo

114. Tonga

115. Tunisia

116. Turkey

117. Turkmenistan

118. Uganda

119. Ukraine

120. Uruguay

121. Uzbekistan

122. Venezuela

123. Vietnam

124. Yemen

125. Zambia

126. Zimbabwe

PART 9. CONTACT INFORMATION OF THE EURASIAN PATENT OFFICE

As from June 1, 1998 EAPO has launched information service «EAPO Hot line» for various inquires: general requests, filing, payment of corresponding fees, application processing and maintenance of patent. All inquires will be considered and answered by EAPO specialists in the shortest possible time. «EAPO Hot line» is available on week days only.

Inquires may be submitted by telephone, fax or e-mail.

Telephones:

+7 (495) 411-61-50 – EAPO Hot line – Working hrs: 09.00 – 17.00

+7 (495) 411-61-61 – General Issues – Working hrs: 09.00 – 17.00

+7 (495) 411-61-60 – Examination Division – Working hrs: 09.00 – 17.00

+7 (495) 411-61-52 – Accounting Department

Fax:

+7 (495) 621-24-23 (24 hours)

E-mail: info@eapo.org

Legal address and address for correspondence:

M. Cherkassky per. 2, Moscow, 109012, Russia



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