Inputs from Member States and Regional Patent Offices to the Thirty-Eighth Session of the Standing Committee on the Law of Patents

Respondent Information

First Name:

[redacted]

Last Name:

[redacted]

Country:

Bulgaria

IP Office

Patent Office of the Republic of Bulgaria

Job title

Director Patent Directorate

Email address:

[redacted]

Email address confirmation:

[redacted]

Disclaimer:

The information provided in response to this questionnaire is understood to be submitted on behalf of the Member State or regional organization concerned, through its competent authority and in accordance with its applicable official internal procedures.
It is assumed that the person completing and submitting the questionnaire is duly authorized to do so and that the information reflects the official position or practice of the Member State or organization, to the extent possible.

I confirm that I have read and understood the statement above and that I agree with its contents.

A. Prior Art

1. How is prior art defined under the applicable national or regional law?

Everything made available to the public by a written or oral description, use or in any other way before the filing date (priority date).

2. Against which date is prior art assessed under the applicable law?

Prior art is assessed against the filing date of the patent application, or, where a valid priority claim exists, against the earliest priority date.

3. Which types of information may constitute prior art under the applicable law, and how is it determined whether such information is considered to form part of the prior art?

Prior art generally refers to any information that has been made available to the Public before the relevant filing or priority date of a patent application.
Under the national legislation the state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use or by disclosure in any other way anywhere in the world before the date of filing or, respectively, the priority date of the
patent application.
The state of the art shall also include the contents of the national applications for patent, the European and the international applications for patent, for which the Republic of Bulgaria has been pointed out as party and which have sate of submitting, respectively priority date, earlier than the date of filing or, respectively, the priority date of the patent application, if later they are published in the official bulletin of the Patent Office. The state of the art shall include also the contents of the national applications for registration of utility models with a date of filing, respectively priority date, earlier than the the date of filing or, respectively, the priority date of the patent application,, if in consequence a publication of their registration is made.
The state of the art can include scientific and technical literature, books, conference papers, public use or sale of a product, oral disclosures, as well as content accessible online.
Information is treated as prior art if it was publicly available before the relevant date and disclosed in a manner that allows a person skilled in the art to understand and, where appropriate, reproduce the invention.

4. Does the applicable law provide for any category of prior art that is taken into account for patentability purposes notwithstanding that it was not publicly available before the relevant filing or priority date (sometimes referred to as "secret prior art")?

No

If yes, please indicate, where applicable, the types of information or documents concerned (for example, earlier-filed patent applications), the relevant date(s) for determining such prior art, as well as any limitations, exclusions, or special rules applicable to such prior art. :

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

The state of the art for utility model applications shall be held to comprise:
1. everything made available to the public by its use in the Republic of
Bulgaria, by means of a written or oral description or in any other way anywhere in the
world before the date of filing of the application for the utility model, respectively the
priority date;
2. The state of the art shall also include the contents of the national applications for patent, the European and the international applications for patent, for which the Republic of Bulgaria has been pointed out as party and which have sate of submitting, respectively priority date, earlier than the date of filing or, respectively, the priority date of the patent application, if later they are published in the official bulletin of the Patent Office. The state of the art shall include also the contents of the national applications for registration of utility models with a date of filing, respectively priority date, earlier than the the date of filing or, respectively, the priority date of the patent application, if in consequence a publication of their registration is made.

B. Novelty

1. How is the requirement of novelty defined under the applicable national or regional law?

The requirement of novelty under Bulgarian patent law is defined in Article 8 of the ACT ON PATENTS AND REGISTRATION OF UTILITY MODELS, which states:
"Art. 8. (1) An invention shall be considered to be new if it does not form part of the state of the art.
(2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, anywhere in the world, before the filing date or the priority date, as appropriate, of the application.
(3) The state of the art shall comprise also the content of all national, European and international patent applications designating the Republic of Bulgaria, of which the filing date or priority date, as appropriate, are prior to the date referred to in paragraph 2 and which are published in the Official Bulletin of the Patent Office after that date."
(4)The state of the art shall include also the contents of the national applications for registration of utility models with a date of filing, respectively priority date, earlier than the date referred to in Para 2, if in consequence a publication of their registration is made.
(5) Substances or compounds, included in the state of the art of Para 2 and 3,
which are used in the methods of treating humans or animals through therapy or surgery shall be considered new, if their use is not included in the state of the art.

2. For the purposes of assessing novelty under the applicable law, are there any novelty-specific considerations regarding the relevant date or the scope of information taken into account, beyond those addressed in the Prior Art section of this survey?

No additional novelty-specific considerations apply beyond those addressed in the Prior Art section. Novelty is assessed against the filing date or, where applicable, the priority date.

3. Does the applicable law apply an absolute novelty requirement, or does it provide for any limitations or qualifications to novelty (for example, relative novelty or other restricted approaches), apart from any grace period mechanisms addressed separately in this survey?

The Bulgarian patent law provides for an absolute novelty standard. An invention is considered new if it does not form part of the state of the art before the filing date or, where applicable, the priority date. No relative or territorially restricted novelty standards apply.

4. Apart from the approach described in question 3, are there any specific rules or contextual factors that affect what is taken into account as prior art for the purposes of assessing novelty under the applicable law?

In addition to the general definition of prior art, there are specific rules and contextual factors set out in Articles 55(1)–(5) of the Ordinance on the Preparation, Filing, and Examination of Patent Applications for Inventions and Utility Models. These provisions further clarify how disclosures are assessed, including the conditions under which information is considered to have been made available to the public and how different types of disclosures are treated when evaluating novelty.

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

During the proceedings for the registration of a utility model, the applicant may file a request for a search of the prior art (Art. 75e, paras. 1 and 2 of the ACT ON PATENTS AND REGISTRATION OF UTILITY MODELS) and a request for an examination of the utility model (Art. 75e, para. 4 of the ACT ON PATENTS AND REGISTRATION OF UTILITY MODELS) upon payment of the relevant fees, with the application proceedings continuing regardless of the results of the searches.

C. Inventive Step

1. How is the criterion of inventive step or non-obviousness defined under the applicable national or regional law?

The invention is not obvious to a person skilled in the art having regard to the state of the art. The state of the art consists of everything made available to the public by a written or oral description, use or in any other way before the filing date (priority date).

2. For the purposes of assessing inventive step or non-obviousness under the applicable law, what is the relevant date and what prior art or information is taken into account?

The state of the art consists of everything made available to the public by a written or oral description, use or in any other way before the filing date (priority date).

3. What is the standard applied under the applicable law to determine whether an invention involves an inventive step or is non-obvious, in particular as reflected in the concept of the "person skilled in the art", focusing on how the standard is understood or applied, rather than its formal legal definition?

Further guidance on the assessment of inventive step is provided in Articles 56(1)–(7) of the Ordinance on the Preparation, Filing, and Examination of Patent Applications for Inventions and Utility Models.

4. Are there any specific rules, limitations, or contextual factors that apply to the assessment of inventive step or non-obviousness under the applicable law?

No

Please indicate, where relevant, whether such rules or factors include geographic or territorial considerations affecting the relevance of prior art (for example, distinctions between domestic and foreign disclosures, uses, or publications, or territorial conditions applicable to particular categories of prior art) or any other particular considerations relevant to the assessment.

***Responses should be limited to such contextual factors asthey relate to the assessment of inventive step or non-obviousness, without restating general rules on what constitutes prior art.*:**

6. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

During the proceedings for the registration of a utility model, the applicant may file a request for a search of the prior art (Art. 75e, paras. 1 and 2 of the ACT ON PATENTS AND REGISTRATION OF UTILITY MODELS) and a request for an examination of the utility model (Art. 75e, para. 4 of the ACT ON PATENTS AND REGISTRATION OF UTILITY MODELS) upon payment of the relevant fees, with the application proceedings continuing regardless of the results of the searches.

D. Grace Period Mechanisms and Pre-Filing Disclosures

1. Does the applicable law provide for any mechanism under which certain disclosures made before the filing or priority date do not prejudice the patentability of an invention, in particular with respect to novelty and/or the legal effect on prior art?

Yes

If yes, please identify the relevant legal provisions (in primary and/or secondary legislation) and describe their operation.: Disclosure not to be taken into account in determining novelty if it occurred within six months before the filing date (priority date) in consequence of: (a) an evident abuse in relation to the applicant or his legal predecessor; (b) display of the invention by the applicant or his legal predecessor at a official or officially recognized international exhibition.

2. What is the duration of the mechanism referred to in question 1, during which the covered disclosures do not prejudice the patentability of the invention?

Six months term before the date of submitting of the
application for the invention, respectively before the priority date

3. Where such a mechanism exists, which categories of disclosures are covered by it?

The grace period covers disclosures resulting from evident abuse (including breach of confidence) and disclosures made through exhibiting the invention at an official or officially recognized exhibition, subject to statutory conditions.

4. Are there any formalities or procedural requirements that must be fulfilled in order to rely on the mechanism identified in question 1?

Yes

Please describe any such requirements, where applicable, including, for example, the need to file statements, declarations or notices, to submit certificates or other supporting evidence, or to comply with any timing or notification requirements or any information relating to the burden of proof. **:** In the case of exhibition-related disclosure, novelty is preserved only if the applicant declares the exhibition at the time of filing the application and submits supporting evidence within three months thereafter.

5. Does the applicable law provide for prior user rights or other protections for third parties who may be affected by an invention that has benefited from a graced pre-filing disclosure?

Yes

If yes, identify the relevant legal provisions (including any provisions in primary and/or secondary legislation), and describe the conditions under which such rights or protections arise (for example, good-faith use of the invention prior to the filing or priority date), as well as how such rights or protections operate. **:** A person who has used in good faith an invention or has made the necessary preparations for its use prior to the date of filing of the patent application may continue to use the invention after the said date within the same volume.

6. Please provide any additional information that may be relevant, including, where applicable, any guidance (e.g. patent office manual/guidelines) or key judicial decisions in your jurisdiction with general relevance to applicants or interested parties, captured by patent office practice.

Please upload any document that may be relevant to grace period mechanisms and/or pre-filing disclosures.

7. Please indicate whether any legal provisions, including those applicable to utility models or any other similar system (where different from those applicable to patents of invention), are relevant to the subject matter of this section and, if so, kindly provide the relevant information and references.

Disclosure of a utility model does not affect novelty if made within 12 months before the filing or priority date by the applicant (or predecessor in title), or by a third party as a result of evident abuse against them. This grace period may be invoked at any time.

Submission of information concerning other aspects of national/regional patent law

F. Exclusions from Patentable Subject Matter

Exceptions_to_patentability.pdf

G. Exceptions and Limitations to Patent rights

Exeptions_and_limitations_to_patent_rights.docx

Final review before submission

Confirmation of submission

I am aware that by clicking "Submit" below, my responses will be sent to the SCP Secretariat.