

# Application proceeding for patents

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Both globally and in our country, obtaining a patent requires the fulfillment of formalities, having the process different stages. INAPI assesses the compliance with the requirements of Law 19.039 and its amendments along with its regulations.

## 1) Filing

**Contents** Application form and technical sheet Application form and technical sheet are available for purchase at INAPI. Fill both forms by typewriter or computer generated with information identifying the applicant, inventor and representative, if any. Also, it is necessary to indicate the type of application, priority date, if any; including a title to know what is protected.

In the technical sheet it must be included a summary of the invention, technological and the problem aimed to solve, and may also contain a figure. The summary should not exceed 1600 characters. If the applicant designates a representative, it is necessary to submit a power of representation. If the applicant is other than the inventor, it is necessary to submit an assignment of rights.

**Specification** The specification is where the inventor specifies, describes, illustrates, and discloses the invention in so much detail that an experienced\* person could understand and use that invention. In the case of patents and utility models, the specification must contain:

- Description of what is known in the art.
- Description of the drawings accompanied, if any.
- Detailed description of the invention.
- Example of application where appropriate.

In the case of industrial designs and drawings, the specification must contain:

**Industrial Designs**

- An introduction indicating the industrial object and the preferred application.
- Description of the drawings accompanied.
- Detailed description of the geometric design, with reference to the proportions or relative dimensions, not expressing particular units, so that it is possible to reconstruct the image of the object by simply reading this description.

**Industrial Designs**

- Introduction explaining the drawing.
- Description of the drawing submitted.

In the case of layout-designs (topographies) of integrated circuits, the specification must contain:

- Introduction explaining the layout- designs (topographies) of integrated circuits.
- Description of the prototype or model submitted.

**Claims** This is a part of the patent application where the inventor specifically states what their invention is and what it can do. The claim must conform to the invention as set forth in the specification. The terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. If there are several claims, they shall be numbered consecutively in Arabic numerals.

**Drawings** Drawings are diagrams, flowcharts and graphs of an invention that are filed with patent applications. These must be made as a technical drawing, and should not be framed or delimited by lines, omitting any kind of label and explanatory text, which must be replaced by numerical reference that will be explained in the specification. In the case of industrial design, drawings must contain at least a top plan view, elevation, profile and perspective. Other views may be required depending on the complexity of the design. In the case of industrial drawings, it is sufficient a flat reproduction of the drawing. In addition, for this type of right, drawings should be numbered and presented with a duplicate photostat. All documents must be submitted in DUPLICATE.

## 2) Preliminary examination

After filing an application for a patent, utility model, industrial design, industrial drawing or layout- designs (topographies) of integrated circuits, INAPI carries out a preliminary examination to check whether all the necessary documents have been submitted and if the application complies with minimum formal requirements to continue processing. During Preliminary Examination may occur that:

- There are observations: The applicant must file a response within 60 working days, making amendments, clarifications or accompanying the relevant documents, as appropriate. If a response is not failed by the deadline, application is abandoned.
- There are not observations or amendments were accepted: If there are not observations or amendments were accepted, the application is accepted for processing. Then the applicant must request an extract of the application at INAPI and require publication in the Official Journal within 60 working days from the date of acceptance for processing. An office of the Official Journal is located at INAPI.

## 3) Publication

The applicant must request and pay for the publication of the application in the Official Journal within a period of 60 working days counted as of the acceptance. The Official Journal has an office located at INAPI. If the publication is not made within such period, the application shall be considered abandoned. To restart the processing, the applicant must request to reopen the file and make the publication within 120 working days, from the date of the resolution stating that the application is abandoned. Otherwise, the application is shelved definitely in an archive which is not public. All the antecedents of the application will be made public as of the date of publication in the Official Journal. The Official Journal publishes extract of applications for industrial property rights in a special supplement of Trademarks and Patents only on Fridays. Therefore, we recommend requesting the publication well before the due date. Please be aware that the Official Journal applies a 100% surcharge in connection with the value of the publications required the day before publication. **Opposition** Once the application is published in the Official Gazette, there is a 45 days period for third parties to file oppositions against these applications for patents, utility models, industrial designs, industrial drawings or layout- designs (topographies) of integrated circuits. Within a period of 60 days from the deadline for filing opposition and whether it was filed or not, the applicant must pay the value of the expert's fees and prove the payment INAPI. The expert's fee payment must be made in the current account No. 900122-1 of BancoEstado, Main Office, payable to "Instituto Nacional - Peritos" If the applicant does not prove the corresponding expert's fee payment before INAPI within 60 days, the application shall be considered abandoned. To restart the processing, the applicant must request to reopen the file and prove that the corresponding expert's fee payment was made, within 120 working days from the date of the resolution declaring the application abandoned. Otherwise, the application is shelved definitely.

## 4) Appointment of Expert

Once the expert's fee is paid, INAPI appoints an expert, according to the technical field of the application. The expert must accept the appointment within 20 working days from the appointment. Accepted the appointment, the expert must issue a written report related to the technical analysis of the application within 60 working days. The report shall contain a statement of compliance or noncompliance with the requirements of patentability.

## 5) Expert's Report

The expert's report is a written document with the technical analysis of the application, with the aim to verify compliance with the requirements for patentability set out in our law, as applicable. The expert must finish the report within 60 working days from the date he accepted the appointment. The expert's report may or may not contain observations in connection with the applications, and they are transmitted to the applicant:

- There are observations The applicant has 60 days to file a response.
- There are not observations If no observations are made, the application is formally reviewed and it may be accepted.

## **6) Final decision**

If the application meets the patentability requirements, the National Director of INAPI will issue a decision granting the industrial property right, after a formal review of the application is carried out. · Final Acceptance After the formal review, the National Director of INAPI issues a decision granting the patent, utility model, industrial design, industrial drawings or layout- design (topographies) of integrated circuits.

- Payment of fees and Accreditation

Once the application is finally accepted, the applicant should request a payment order, to be payable at any commercial bank for the final governmental fees. Then, it is necessary to submit a copy of the payment at INAPI, within 60 working days, as of the notification date of the decision of final acceptance, submitting such copy duly stamped by the Bank. Accredited the payment, INAPI grants a registration number. If the payment or accreditation is not made within that period, the application should be considered abandoned. · Title Subsequently, INAPI proceeds to the making of the record and issues on request, upon payment of corresponding fee, a certificate acknowledging that an individual or company is the proprietor of such industrial property right. The protection provided is territorial, i.e. only at national level and for a certain period of time, i.e. for 10 years renewable indefinitely for similar periods upon payment of the corresponding fee. · Validity Applications submitted by November 30, 2005: The validity of a patent is 15 years from the date of registration. In the case of utility models and industrial designs, the validity is 10 years from the date of filing before INAPI. These periods are not renewable. The registration certificates may be requested personally or via Internet. Applications submitted since 1 December 2005: The validity of a patent is 20 years from the date of filing before INAPI. In the case of utility models, industrial designs, industrial drawings and layout layout- designs (topographies) of integrated circuits, the term is 10 years from the date of filing. These terms are not renewable. The registration certificates may be requested personally or via the Internet.