



INTELLECTUAL PROPERTY CODE (Regulatory Part – Decrees in *Conseil d'Etat*)

MISE A JOUR LEGIFRANCE 15/09/03

Chapter I: Nature of Copyright

Article R111-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The royalties referred to in Article L. 111-4 (third paragraph) of the Intellectual Property Code shall be paid to that one of the following bodies that is competent by reason of its statutory vocation, the nature of the work and the envisaged exploitation mode:

Centre national des lettres;

Société des gens de lettres;

Société des auteurs et compositeurs dramatiques;

Société des auteurs, compositeurs et éditeurs de musique;

Société pour l'administration du droit de reproduction mécanique des auteurs, compositeurs et éditeurs;

Société des auteurs des arts visuels.

If the competent body should not accept to collect the royalties concerned or in the absence of a competent body, the royalties shall be paid to the Deposit and Consignment Office.

Article R111-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The amount of the monies to be paid by the user of a work shall be determined in accordance with usual practice in each of the categories of creation involved.

The payment of the monies and their use for purposes of general or professional interest shall be subject to controls by the Minister responsible for culture.

Chapter II: Patrimonial Rights

Article R122-1



(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The threshold for the levying of the resale right referred to in Article L. 122-8 shall be set at a selling price of 100.

Article R122-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

An artist who wishes to enjoy resale right either for the whole of his work or for one or more works, when they are included in a public sale, shall be required to have published in the Official Journal a statement of which the terms shall be laid down by ministerial order.

The artist concerned shall simultaneously address to the Minister responsible for culture a duplicate of his statement.

The statement may be made by the heirs or successors in title of the artist. The statement may mention the marks or particulars of any kind that may facilitate authentication of the artist's works.

Where the object results from the collaboration of more than one artist wishing to enjoy resale right, the statement may be made collectively by those artists or individually by each of them.

Such statement shall include the fact that there is agreement between the collaborators on the distribution of the royalty provided for by this Code and in what proportion they have agreed to proceed therewith.

Article R122-3

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2001-650 of 19 July 2001 art. 68 Official Journal of 21 July 2001 in force on 1 October 2001)

In the absence of the statement referred to in the preceding Article, the concerned party may enjoy the resale right when a given work is included in a public sale by requesting the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, at the latest within 24 hours after the sale, to effect the levy referred to in Article L. 122-8.

Where the object has resulted from the collaboration of more than one artist and in the absence of a statement as provided for in the preceding Article, a person or persons who wish to enjoy the resale right may assert that right in accordance with the preceding paragraph.

The notification addressed to the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions



shall state whether there is agreement between the collaborators on distribution of the royalty and in what proportion they have agreed to proceed therewith.

Article R122-4

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The statements under Articles R. 122-2 and R. 122-3 may include the designation of a representative such as a company or association instructed to represent the interests of the artists, his heirs and cessionaries for the application of the provisions of Article L. 122-8.

Such representative shall take all necessary steps to safeguard the rights of the artist, his heirs and cessionaries.

Article R122-5

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2001-650 of 19 July 2001 art. 68 Official Journal of 21 July 2001 in force on 1 October 2001)

As from the inclusion in the Official Journal of the statement under Article R122-2 or of receipt of the statement under Article R122-3, the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, carrying out the public sale of the work of art that is the subject of such statement shall be required, at his personal liability, to levy on the selling price obtained the amount resulting from application of the tariff determined by Article L122-8 and Article R122-1.

Article R122-6

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2001-650 of 19 July 2001 art. 68 Official Journal of 21 July 2001 in force on 1 October 2001)

Three clear days after a sale that has given rise to a levy, the monies shall be kept by the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, at the disposal of the concerned party. The monies shall be remitted either against proof by the concerned party of his identity or of his capacity to act or by a declaration of the representative and at his liability.

Where the object has resulted from the collaboration of more than one artist, in the absence of an agreement under Articles R. 122-2 and R. 122-3, the amount resulting from application of the tariff determined by Articles R. 122-8 and R. 122-1 shall be held for the benefit of the entitled persons until the issue of distribution has been amicably settled or a decision has been taken under the general rules of law. If, on expiry of the three-month period laid down by Article R. 122-7, the conditions for distribution have not been fixed and



notified by the parties concerned to the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, who has made the levy, the amount resulting from that levy shall be paid to the Deposit and Consignment Office for subsequent remittance to the entitled party.

Article R122-7

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2001-650 of 19 July 2001 art. 68 Official Journal of 21 July 2001 in force on 1 October 2001)

If the monies have not been handed out after the sale, the public or ministerial officer shall hold the amount during a period of three months.

Before expiry of the first month, the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, shall inform by registered letter the artist, his heirs and cessionaries or his representative that he has made a levy for his benefit in application of Article L122-8 and that the amount resulting is being kept at his disposal.

If no reply is received to this notification prior to expiry of the third month, the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, shall be released, after that time limit, from all liability on payment of the levied amount to the vendor.

The amount of the notification cost, which may not exceed one franc, shall be deducted from the amount of the monies paid to the artist or to the vendor.

Article R122-8

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2001-650 of 19 July 2001 art. 68 Official Journal of 21 July 2001 in force on 1 October 2001)

The public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, who has paid into the hands of the vendor the amount levied and not claimed shall be required, on a simple request by the concerned parties, to communicate the amount of such money and the name, capacity and address of the vendor concerned, against whom those parties shall retain any statutory remedies.

Article R122-9

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



(Decree No. 2001-650 of 19 July 2001 art. 68 Official Journal of 21 July 2001 in force on 1 October 2001)

If the public or ministerial officer, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, who has made the levy prescribed by Article L122-8 receives an opposition or a regular defense against payment before any payment is made to the concerned party of the resulting amount, that amount shall be paid, on expiry of the three-month period under Article R122-7, to the Deposit and Consignment Office for remittance to the entitled party.

Article R122-10

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2001-650 of 19 July 2001 art. 68 Official Journal of 21 July 2001 in force on 1 October 2001)

The public or ministerial officers, or the person authorised on a permanent or casual basis to conduct voluntary sales of moveables at public auctions, shall keep a special register for the application of Article L122-8. The register, of which the pages shall be numbered and which shall be initialled on the first and last pages, shall include in the order of each public sale a summary description of the work of art, the selling price, the name of the artist for whom the resale royalty has been levied, the name and address of the vendor. The register may be replaced by a receipt register of which one of the slips shall constitute the notification referred to in Article R122-7 and of which the stub shall meet the requirements of this Article.

Article R122-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Artists of foreign nationality, their heirs and cessionaries shall enjoy resale right in the same circumstances and under the same conditions as French artists if their national legislation affords enjoyment of this right to French artists, but only during that time for which the artists are allowed to exercise the right in the country concerned.

However, artists of foreign nationality who, during their artistic career, have participated in French art life and who have had their place of residence in France for at least five years, even if not consecutive, may enjoy, without the requirement of reciprocity, the rights laid down in Article R. 122-2.

The successors in title of such artists shall enjoy the same faculty. The artists concerned or their successors in title shall submit a request to the Minister responsible for culture who shall take a decision after having heard the opinion of a commission of which the



composition and conditions of operation shall be laid down by an order issued by the Minister.

Article R122-12

(inserted by Decree No. 97-1316 of 23 december 1997 art. 1 Official Journal of 31 December 1997)

For the purposes of the application of the provisions of item (d) of subparagraph 3 of Article L. 122-5, the catalogue of a sale of works of graphic or three-dimensional art means copies of a list, whether illustrated or not, distributed prior to a sale at public auction, which, in order to inform potential purchasers, describes the works that will be disposed of in the course of the sale, and also the rules for the conduct of the said sale, which copies are made available free of charge or at cost price to all persons requesting them of the public or ministerial officer conducting the sale.

Section 4: Commission Contracts for Advertising

Article R132-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee referred to in Article L. 132-32 shall meet either in plenary composition or in compositions specialized in one or more advertising modes. Each such composition shall be chaired by the Chairman of the Committee and shall comprise an equal number of representatives of the advertising writers and of representatives of the advertising producers.

Article R132-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee shall comprise 12 representatives of the organizations representing the advertising writers and 12 representatives of the organizations representing the advertising producers, designated in accordance with the first paragraph of Article L. 132-33.

One alternate shall be designated, in the same manner, for each full representative of the organizations representing the advertising writers and the advertising producers. The alternate members of the Committee shall not attend its sessions and shall not participate in its discussions save for the absence of the full representative for whom they are the alternate.

Article R132-3



(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman and members of the Committee shall be designated for three years. Vacancies occurring during their term of office shall be filled by designation for the remainder of the current term.

Article R132-4

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocations shall be *ex officio* where requested, with a specific agenda, either by the Minister responsible for culture or by one third of the members of the Committee.

Article R132-5

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present. Where this quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Article R132-6

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.

Article R132-7

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions of the Committee shall be published in the Official Journal of the French Republic at the initiative of the Minister responsible for culture.



Section 5: Pledging the Software Exploitation Right

Article R132-8

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

Pledges in respect of the software exploitation right shall be entered in the Special National Register of Software kept by the National Institute of Industrial Property.

The entry shall contain for each computer program:

- 1°. The identity of the holder of the right referred to in Article L. 122-6 and of the pledgee, together with any changes concerning their surnames, forenames, business names, legal form, domicile or headquarters;
- 2°. A statement of the elements enabling the computer program to be identified, such as name, make, designation of the source code, operating documents and updates, together with any other characteristics of the program and, where appropriate, the reference of any deposit;
- 3°. The deed establishing the pledge on all or a part of the software exploitation right;
- 4°. The acts modifying ownership or enjoyment of the exploitation right;
- 5°. The acts modifying the rights of the pledger;
- 6°. Court actions and final court decisions where they concern the rights that are the subject matter of the pledge;
- 7°. Corrections of material errors affecting the entries.

Article R132-9

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

The request for entry shall be submitted by one of the parties to the pledge or by a representative having powers of attorney. Unless otherwise provided, such powers shall extend to the requests for entry referred to in Articles R. 132-10 to R. 132-13 and R. 132-15, to the receipt of the notifications referred to in Article R. 132-14 and to the request for cancellation referred to in Article R. 132-16.

Article R132-10

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

The request for entry of a pledge shall be effected by filing a memorandum whose form shall be determined by decision of the Director General of the National Institute of Industrial Property.

The memorandum shall contain the following particulars:



1°. The surnames, forenames, domicile or business names, legal form and headquarters of the creditor and the debtor;

2°. The designation of the software by means of its name, mark, with a precise statement of all the elements that identify and characterize it, such as the designation of the source code, the operating documents and the updates together with, where appropriate, any references to a deposit of the software;

3°. The nature and date of the deed of pledge;

4°. The amount of the debt covered by the deed, its exigibility, the conditions relating to interest and the accessory costs.

This memorandum shall be accompanied by:

- one original of the deed of pledge;
- one reproduction of the above-mentioned deed if the requester wishes the original or the authentic copy to be returned to him;
- proof of payment of the prescribed fee;
- where appropriate, the powers of the representative.

Article R132-11

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

Any acts modifying or canceling the published rights of the debtor and of the creditor, such as, in particular, transfer, assignment of an exploitation right, transfer of the pledge or renunciation thereof, together with court actions and final court decisions relating to the rights, shall be entered at the request of one of the parties to the act.

The request shall contain:

1°. A memorandum requesting entry whose form shall be determined by decision of the Director General of the National Institute of Industrial Property;

2°. One of the originals of the private deed or, as appropriate, an authentic copy of the deed or of the act instituting proceedings;

3°. A copy of the above-mentioned deed where the requester wishes the original or the authentic copy to be returned to him;

4°. Proof of payment of the prescribed fee;

5°. Where appropriate, the powers of the representative.

Article R132-12

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

Any change in the surnames, forenames or domicile of the natural persons or any change in the business names, legal form or headquarters of the legal persons shall be entered at the request of any person concerned.

The request shall contain:



- 1°. A memorandum requesting entry whose form shall be determined by a decision of the Director General of the National Institute of Industrial Property;
- 2°. Any document required to ascertain the changes or modifications in the civil status or domicile of natural persons or the name, legal status and headquarters of legal persons;
- 3°. Proof of payment of the prescribed fee;
- 4°. Where appropriate, the powers of the representative.

Article R132-13

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

Requests for correction of material errors in acts already published in the Register may be submitted by any party to the acts concerned in accordance with the procedure under Article R. 132-12. They shall be accompanied by all the necessary documents.

Article R132-14

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

If a request for entry is not in conformity, a reasoned notification shall be made to the requester. He shall be given a period of two months to regularize his request or to submit observations. Failing regularization or the submission of observations enabling the objection to be lifted, the request shall be rejected by a decision of the Director General of the National Institute of industrial Property.

The notification may be accompanied by a proposal for regularization. In such case, the proposal shall be deemed accepted if the requester does not contest it within the two-month period afforded to him. *(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)*

Article R132-15

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

An entry shall cease to have effect if it is not renewed under the procedure set out in Article R. 132-10 prior to expiry of a period of five years computed from the date of entry of the pledge.

Article R132-16

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)



Cancellation of an entry may be requested by the creditor or the debtor by furnishing proof of the extinction of the pledged debt or by producing the act giving release from the entry.

Cancellation may also be effected as a result of a final court decision.

Article R132-17

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

All entries made in the Special National Register of Software shall be notified in the Official Bulletin of Industrial Property.

Any person concerned may obtain from the Institute:

- a) A reproduction of the entries in the Register;
- b) A certificate attesting to the fact that there is no entry.

Chapter II: Rights of Performers

Article R212-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee referred to in Article L. 212-9 shall meet either in plenary composition or in compositions specialized in one or more sectors of activity. Each such composition shall be chaired by the Chairman of the Committee and shall comprise an equal number of representatives of the employees and representatives of the employers.

Article R212-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee shall comprise 12 representatives of the employees' organizations and 12 representatives of the employers' organizations. The organizations called upon to designate representatives and the number of representatives of each such organization shall be laid down by an order issued by the Minister responsible for culture.

One alternate shall be designated, in the same manner, for each of the full representatives of the employees' and employers' organizations. The alternate members of the Committee shall not attend its sessions and shall not participate in its discussions save for the absence of the full representative for whom they are the alternate.

Article R212-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The Chairman and members of the Committee shall be designated for three years. Vacancies occurring during their term of office shall be filled by designation for the remainder of the current term.

Article R212-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocations shall be *ex officio* where requested, with a specific agenda, either by the Minister responsible for culture or by one third of the members of the Committee.

Article R212-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present. Where this quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Article R212-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.

Article R212-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions on the Committee shall be published in the Official Journal of the French Republic on the initiative of the Minister responsible for culture.

Chapter IV: Provisions Common to Performers and Phonogram Producers



Article R214-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee referred to in Article L. 214-4 shall meet in either plenary composition or in compositions specialized in one or more sectors of activity. Each such composition shall be chaired by the Chairman of the Committee and shall comprise an equal number of representatives of the beneficiaries of the right to remuneration and the representatives of the users of phonograms.

Article R214-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee shall comprise 12 representatives of the organizations of beneficiaries of the right to remuneration and 12 representatives of the organizations of users of phonograms designated in accordance with the second paragraph of Article L. 214-4.

One alternate shall be designated, in the same manner, for each of the full representatives of the organizations of beneficiaries of the right to remuneration and of the users of phonograms. The alternate members of the Committee shall not attend its sessions and shall not participate in its discussions save for the absence of the full representative for whom they are the alternate.

Article R214-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman and members of the Committee shall be designated for three years. Any vacancies occurring during their term of office shall be filled by designation for the remainder of the current term.

Article R214-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocations shall be *ex officio* where requested, with a specific agenda, either by the Minister responsible for culture or by one third of the members of the Committee.

Article R214-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present. Where the quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Article R214-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.

Article R214-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions of the Committee shall be published in the Official Journal of the French Republic on the initiative of the Minister responsible for culture.

Sole Chapter

Article R311-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee referred to in Article L. 311-5 shall meet in either plenary composition or in either of two compositions specialized, in the first case, in phonograms, and in the second case, in videograms. Each of these compositions shall be chaired by the Chairman of the Committee and shall comprise, for one half, the representatives of the beneficiaries of the right to remuneration, for one quarter, the representatives of the manufacturers or importers or of persons who effect intracommunity acquisition of mediums and, for one quarter, of representative of the consumers.

Article R311-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The representative of the State, Chairman of the Committee, shall be appointed by order of the Minister responsible for culture.

The Committee shall further comprise 24 members representing the categories referred to in the first paragraph of Article L. 311-5 and designated as provided in the second paragraph of the aforementioned Article.

One alternate shall be designated, in the same manner, for each of the full members. The alternate members shall not attend the sessions and shall not participate in the deliberations save in the absence of the full representative for whom they are the alternate.

Article R311-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman and the members of the Committee shall be designated for three years. Any vacancies occurring during the term of office shall be filled by designation for the remainder of the current term.

Article R311-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocation shall be *ex officio* where requested, with a specific agenda, by either the Minister responsible for culture or by one third of the members of the Committee.

Article R311-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present. If the quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Article R311-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.



Article R311-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions of the Committee shall be published in the Official Journal of the French Republic at the initiative of the Minister responsible for culture.

Chapter I: General Provisions

Article R321-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

The file addressed to the Minister responsible for culture pursuant to Article L. 321-3 shall include the draft statutes and general regulations and all documents proving the professional qualifications of the founders, the human, material or financial means that the society intends to use for the effective collection of royalties and for the exploitation of their repertoire.

The file shall be communicated by registered mail with notification of receipt.

Article R321-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

(Decree No. 2001-334 of 17 April 2001 art. 1 I Official Journal of 18 April 2001)

Members may at all times request communication from the society of:

1°. The list of the society's representatives;

2°. A table tracing back over a period of five years the annual amounts collected and distributed as well as withholdings on the basis of management costs and other withholdings;

3°. A document describing the distribution rules applicable;



4°. The aggregate royalties owed to them over the course of the last twelve months, as a result of contracts concluded with users, and the manner in which this aggregate amount was calculated.

Article R321-3

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

(Decree No. 2001-334 of 17 April 2001 art. 2 Official Journal of 18 April 2001)

The members of the royalty collection and distribution societies may be convened by registered mail or by a notice published in at least two nationally distributed newspapers that are empowered to publish statutory notifications in the department in which the society has its registered offices and which are laid down in their statutes. Members shall be informed by any suitable means should there be any modification to the list of newspapers prior to the updating of statutes. Members are informed, by any suitable means, of any changes to the list of these newspapers made prior to the updating of the statutes.

In addition to the particulars referred to in the first paragraph of Article 40 of Decree No. 78-704 of July 3, 1978, the notification shall state the date and venue for the meeting; such notification shall be published 15 days at least before the date of the general meeting.

Where the statutes require certain general meetings to be held subject to specific conditions as to quorum or majority, those conditions shall be mentioned in the notification that convenes the meetings.

Article R321-4

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

The date of the general meeting at which account is given, in accordance with Article 1856 of the Civil Code, on the management of the society shall be laid down in the statutes.

If the general meeting cannot be held as laid down in the statutes, the members must be informed thereof at least 15 days beforehand, either by registered letter with notification of receipt or by a notification of postponement published in the manner laid down in Article R. 321-3. The letter or the notification shall give the reasons for the postponement and the date at which the general meeting will be held.

Article R321-5

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



(Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

Any member may request to be convened individually to general meetings or to certain of them by registered post with notification of receipt.
Where a meeting is convened by notification in the press, the cost of the registered post shall be borne by the party concerned.

Article R321-6

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

(Decree No. 2001-334 of 17 April 2001 art. 1 II Official Journal of 18 April 2001)

Before the general meeting to approve the accounts, all members are entitled to examine the books and documents referred to in Article 48 of Decree No. 78-704 of 3 July 1978 on the application of Act No. 78-9 of 4 January 1978 amending Title IX of Book III of the Civil Code, relating to the current financial year. This right must be exercised in the two months prior to the General Meeting, unless a longer period has been stipulated in the company's statutes.

At least fifteen days before the date specified for this meeting, members shall send the company a written request mentioning the documents to which they wish to have access. Within ten days of receipt of the request, the company shall suggest a date for exercising the right of access, which shall occur in the conditions specified in the statutes. The third paragraph of Article 48 of the aforementioned Decree of 3 July 1978 shall be applicable.

The right of access shall be exercised at the headquarters of the company or on the premises of the administrative organisation and shall be subject to the provisions of the final paragraph of Article R321-6-1, which does not give entitlement to a copy of the documents.

Article R321-6-1

(inserted by Decree No. 2001-334 of 17 April 2001 art. 1 III Official Journal of 18 April 2001)

Moreover, members may, during the period specified in the first paragraph of Article R321-6, ask the company to provide them with:

- 1°. The annual accounts to be submitted to the general meeting, together with the accounts for the previous year, accompanied by the documents referred to in Article R321-8;
- 2°. The reports of the directors and of the auditors, to be submitted to the meeting;
- 3°. Where applicable, the text and presentation of the reasons for the proposed resolutions, together with information on the applicants applying for a term of office in the company;



4°. The overall amount, certified correct by the auditors, of the remuneration received by the highest paid individuals, of whom there will be ten or five in number, depending on whether the company has a workforce of under or over two hundred employees;

5°. A list of investments appearing in the accounts at the closure of the financial year, together with the average rate of return on short and medium-term investments over the financial year;

6°. A table mentioning the company in which the company has a holding and the profit and loss account and the balance sheet for each of these companies;

7°. A list of the main user categories, their number and the amount of benefit paid over the year.

8°. A table showing the comparison between the annual accounts as they are generally presented and the tables specified in Article R321-8.

The documents referred to in points 1 to 8 shall be made available over the same period to members at the company headquarters or on the premises of the administration, where the former may examine them or obtain a copy.

Article R321-6-2

(inserted by Decree No. 2001-334 of 17 April 2001 art. 1 III Official Journal of 18 April 2001)

Members' right to information pursuant to Article R. 321-6 shall be ensured subject to compliance with the limits laid down by Article L. 321-5 and the rules laid down by the memorandum of association as regards confidentiality, inter alia as regards business secrets, vis-à-vis third parties. Also, a member may not access personal data concerning staff members of the company.

If required, the personal data excluded from the right of access, shall be concealed.

Documents having a preparatory nature to decision by the society's bodies or relating to a pending lawsuit may not be accessible.

The company may decide not to follow up on repeated or abusive requests.

Article R321-6-3

(inserted by Decree No. 2001-334 of 17 April 2001 art. 1 III Official Journal of 18 April 2001 in force on 1 July 2001)

A member who has received a refusal of communication may refer the matter to a special commission comprising at least five members, elected by the general meeting from those who have no corporate representation status.

The opinions of this commission must be justified. The applicant and the company management bodies will be notified of them.

The commission shall provide the general meeting with an annual report on its activities. This report will be sent to the Minister for Culture and to the Chairman of the Commission, under the terms of Article L321-13.



Article R321-6-4

(inserted by Decree No. 2001-334 of 17 April 2001 art. 1 III Official Journal of 18 April 2001)

For a de iure or de facto manager to refuse to communicate all or part of the documents referred to in Articles R321-2, R321-6 and R321-6-1 shall be sanctioned by the fine provided for 3rd class offences.

Article R321-7

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

Users may obtain knowledge of the repertoire referred to in Article L. 321-7 at the headquarters of the society or, where appropriate, at one of its regional agencies. At their request, they may be given a copy of the repertoire without any further claim on them other than an amount representing the cost of the copy.

Article R321-8

(Decree No. 98-1040 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

(Decree No. 2001-334 of 17 April 2001 art. 1 IV Official Journal of 18 April 2001)

(Decree No. 2001-809 of 6 September 2001 art. 1 Official Journal of 8 September 2001)

Communication of the annual accounts of the royalty collection and distribution companies, provided for under Article R321-6-1 for all members and in application of the first paragraph of Article L321-12, to the Minister for Culture must include:

A. – As regards the financial management of the company:

1. In compliance with the common accounting rules on the reporting of revenue and expenses, a management account in compliance with Annex 1 (NB).

The companies concerned will also be entitled to:

a) Show corporate operations to the profit of the partners, on the one hand, and cultural operations on the other, either in the management account or in a separate account.

b) Show the royalties received in revenue, the amounts to be allocated and the amounts effectively paid in expenses for the financial year in the management account.

2. As management indicators:

a) in compliance with Annex 2, a table showing the allocation of the amounts received per type of remuneration;

b) in compliance with Annex 3, a table showing, per type of remuneration:



- a list of the amounts effectively paid during the financial year for individual allocation;
- the share amounts realised during the financial year actions for collective allocation;
- c) in compliance with Annex 4, a table summarising the amounts remaining for individual allocation, per type of remuneration;
- d) in compliance with Annex 5, a table showing the list of amounts individually allocated and not yet paid, per year of allocation and per type of remuneration;
- e) a table showing the ratio of deductions on royalties to collections for the financial year;
- f) a table showing the amount and allocation of financial revenue;

B. – As regards implementation of activities, financing whereof is provided for under Article L321-9:

1. A breakdown of the amounts paid, per activity category, as specified in the first paragraph of Article L321-9, combined with special information on:

- the cost of management of these activities.
- the organisations that have benefited from assistance over three consecutive years.

2. A description of the allocation procedures;

3. A commentary on the policies of the company as regards the former.

4. A list of the conventions referred to in Article R321-10.

C. Annual information on any action taken to defend the social categories affected by their corporate purpose.

N.B. annexes not reproduced, please refer to the Official Journal of 19 November 1998.

Article R321-9

(Decree No. 98-1040 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

(Decree No. 2001-809 of 6 September 2001 art. 2 Official Journal of 8 September 2001)

I. – The assistance for creation referred to in Article L321-9 refers to assistance provided:

a) for the creation of a work, its performance, the first fixing of a work or interpretation on a phonogram or videogram;

b) for defence, promotion and information campaigns to support creators and their works;

II. – Assistance in the distribution of a live show as referred to in Article L321-9 shall mean assistance provided for:

a) Events presenting a live show as a main or back-up act;

b) Campaigns that will ensure the distribution of the works and artistic services of a live show.



III. – Assistance with the training of artists, as referred to in Article L321-9, refers to assistance provided for the training of authors and artists-performers.

Article R321-10

(inserted by Decree No. 2001-809 of 6 September 2001 art. 3 Official Journal of 8 September 2001)

Any assistance granted by a royalty collection and distribution society pursuant to article L321-9 is the subject of an agreement between the company and the beneficiary. This agreement provides for the conditions of use of the aid granted, together with the conditions in which the beneficiary shall inform the company of the elements which can be used to give proof that said assistance is used in accordance with its destination.

Chapter II: Approved Societies for the Administration of Reprographic Reproduction Rights

Article R322-1

(inserted by Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

A society governed by Title II of Book III may be approved under Article L. 122-10 if it satisfies the following conditions:

- 1°. Provide evidence of the diversity of the partners with respect to the categories and number of entitled persons, of its economic importance expressed in revenue or turnover and the diversity of editorial types of works. Such diversity should be expressed in the composition of its deliberative and executive organs;
- 2°. Provide proof, by any documentary means, of the qualification of its executives and representatives:
 - a) Their capacity as authors;
 - b) Or the type and level of their diplomas;
 - c) Or their professional experience in the field of publication or of the management of professional bodies;
- 3°. Provide all information concerning its administrative organization and the conditions of its installation and equipment. This information should concern the collection of data on reprographic practice, the collection of remuneration, the processing of the date required for distribution of the remuneration collected, the finance plan and the budget forecast for the three financial years following the request for approval;
- 4°. Provide in its statutes, its general regulations and in the model instruments binding each of the members, rules that guarantee the equitable nature of the conditions laid down for distribution of the remuneration to the authors and publishers.

Article R322-2



(inserted by Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

The request for approval, accompanied by a file drawn up in accordance with Article R. 322-1, shall be transmitted by registered letter to the Minister responsible for culture who shall issue a receipt. If the file is not complete, the Minister responsible for culture shall request by registered letter a supplementary file to be submitted in the same form within a period of one month as from the receipt of the letter.

Approval shall be given by order of the Minister responsible for culture, published in the Official Journal of the French Republic.

Approval shall be given for five years. It may be renewed subject to the same conditions as the initial approval.

Approval may be withdrawn if a society fails to satisfy one of the conditions laid down in Article R. 322-1 following service of notice or notification of the defects. The holder of approval shall have a one-month period to submit his observations. Withdrawal shall be pronounced by order of the Minister responsible for culture, published in the Official Journal of the French Republic.

Article R322-3

(inserted by Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

Any change in the memorandum of association or in the general rules, any termination of the functions of a member of the executive and deliberative bodies of an approved company shall be communicated to the Minister responsible for culture within a period of fifteen days as from the corresponding decision. Failure to make a declaration may lead to the withdrawal of approval.

Article R322-4

(inserted by Decree No. 95-406 of 14 April 1995 art. 1, art. 2 Official Journal of 19 April 1995)

If, on the date of publication of a work, the author or his successor in title has not designated an approved royalty collection and distribution society, the society that has the largest number of administered works, determined in accordance with relevant professional usage, shall be deemed to represent the reprographic reproduction right.

The Minister responsible for culture shall designate each year one or more societies that fulfill the conditions set out in the preceding paragraph.



Chapter III : Approved Societies for the administration of the right to authorise retransmission by cable, simultaneous, in full and without change, on the national territory from a member State of the European Community.

Article R323-1

(inserted by Decree No. 98-1041 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

A company governed by Title II of Book III may be approved under I of Article L132-2 and Article L217-2 if it satisfies the following conditions:

- 1°. Provide proof of the effective administration of the right to authorise retransmission by cable, with respect to the number of entitled persons, of its economic importance expressed in revenue or turnover;
- 2°. Provide proof, by any documentary means, of the qualification of its executives and representatives:
 - a) the type and level of their degrees;
 - b) or their experience in the management of professional bodies;
- 3°. Provide all information concerning:
 - a) The administrative structure and the conditions of installation and equipment.
 - b) Payments received or awaited on the occasion of the retransmission by cable, simultaneous, in full and without change, within national territory, from a member State of the European Community and the data required for their distribution;
- 4°. Communicate :
 - a) Copy of agreements made with third parties concerning the retransmission by cable, simultaneous, in full and without change, within national territory, from a member State of the European Community;
 - b) Failing which, a copy of the agreements made with foreign professional organisations in charge of royalty collection and distribution.

Article R323-2

(inserted by Decree No. 98-1041 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The request for approval, accompanied by a file drawn up in accordance with Article R. 323-1, shall be transmitted by registered letter to the Minister responsible for culture who shall issue a receipt. If the file is not complete, the Minister responsible for culture shall request by registered letter a supplementary file to be submitted in the same form within a period of one month as from the receipt of the letter.

Approval shall be given by order of the Minister responsible for culture, published in the Official Journal of the French Republic.



Approval shall be given for five years. It may be renewed subject to the same conditions as the initial approval.

If a society should fail to satisfy one of the conditions laid down in Article R. 323-1, notification is sent by registered letter with acknowledgement of receipt. The holder of the approval shall have a one-month period to submit his observations. Failing regularisation of the situation, the approval may be withdrawn by order of the Minister responsible for culture, published in the Official Journal of the French Republic.

Article R. 323-3

(inserted by Decree no. 98-1041 of 18 November 1998 art. 1, Journal Officiel of 19 November 1998)

Any change in the memorandum of association or in the general rules, any termination of the functions of a member of the executive and deliberative bodies of an approved company shall be communicated to the Minister responsible for culture within a period of fifteen days as from the corresponding decision. Failure to make a declaration may lead to the withdrawal of approval.

Article R323-4

(inserted by Decree No. 98-1041 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The list of companies that benefit from the approval is published each year by the Minister responsible for culture.

Article R323-5

(inserted by Decree No.98-1041 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The designation provided for in the second paragraph of I of article L.132-20-1 and of the second paragraph of I of the article L.217-2 made by registered post with acknowledgement of receipt addressed to a royalty collection and distribution company.

Withdrawal can be effected in terms of the conditions provided for by the articles of the company.

Chapter IV: The mediators commissioned with carrying out the resolution of disputes related to concession of authorisation of retransmission by cable, simultaneous, complete and without alteration, in the territory of a member state of the European Union.

Article R324-1



(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

For the application of articles L.132-20-2 and L.217-3, a list of 20 mediators is established by the Minister responsible for Culture on the proposal of royalty collection and distribution companies approved and included in the list mentioned in article R.323-4, representatives of professional broadcasting organizations and representatives of organizations of beneficiaries with the right to permit the retransmission by cable.

The Minister responsible for Culture decrees the list of professional organizations mentioned in the preceding paragraph.

The list of mediators is published in the official Journal of the Republic of France.

Article R324-2

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998).

The mediators must fulfil the following criteria :

1. Enjoy full civil and political capacity ;
2. Not have carried out acts contrary to honour, integrity and good morals attracting punitive disciplinary or administrative measures ;
3. Possess the qualifications necessary for the resolution of the disputes brought before him ;
4. Be able to present the guarantees of impartiality necessary in the exercise of mediation and notably, not be a member, director, agent of employee of a company or organisation mentioned in article 324.1.

Article R324-3

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The mediators are appointed for a renewable 3-year term.

Article R324-4

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

A mediator may request his removal from the list provided for in article R.324.1 by registered letter with acknowledgement of receipt addressed to the Minister responsible for Culture.

His replacement is provided for in the conditions fixed in article R324-1.



Article R324-5

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The mediator may be called upon, at the joint request of the parties by registered letter with acknowledgement of receipt outlining the points around which their dispute has arisen.

Article R324-6

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The mediator may also be called upon by one of the parties. He makes this request by registered letter with acknowledgement of receipt within a period of eight days, the other parties have a period of one month within which to make known their position by registered letter with acknowledgement of receipt and, in the event of disagreement over the choice of mediator, propose another mediator.

When the choice of mediator is settled by all the parties the mediator informs the parties by registered mail with acknowledgement of receipt.

Article R324-7

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The duration of the mediation shall not exceed three months running from the date of receipt of the joint request or the date of the last acknowledgement of receipt in the case provided for in terms of the last paragraph of the preceding article.

The mediation may be renewed once for the same duration at the request of the mediator with the agreement of the parties.

Article R324-8

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

The mediator will inform the parties of the total amount of his fees. The charge of such fees shall be shared equally by the parties.

Article R324-9

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)



The mediator invites the parties to hear the proceedings from the beginning of the mediation.

He requests that the parties furnish him with all accurate facts he deems necessary and can interview all persons he deems usefully contribute to the proceedings. The parties may be assisted by a lawyer or by anyone of their choice who has been approved by the mediator. Only those invited by the mediator to participate shall be admitted.

The mediator shall retain no fact, grievance, element of information or proof without notifying the parties concerned in conditions allowing the latter to question their legitimacy.

Article R324-10

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 official Journal of 19 November 1998)

The mediator is duty-bound to keep confidential the business brought to his attention.

Investigations carried out by the mediator and his findings cannot be produced or called for within the framework of another procedure of mediation, arbitration or judicial proceedings without the consent of the parties.

Article R324-11

(inserted by Decree No. 98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

At the time the mediator establishes an agreement between the parties, he shall draft minutes outlining the measures to be taken and setting a timeframe for their execution. He addresses copies of these minutes to the parties by registered letter with acknowledgement of receipt within 10 days.

Article R324-12

(inserted by Decree No.98-1042 of 18 November 1998 art. 1 Official Journal of 19 November 1998)

If, at the end of the time limit provided for in article R.324-7, no agreement has been reached between the parties, the mediator may, by registered letter with acknowledgement of receipt, put forward recommendations to the parties, proposing a solution which he judges appropriate and just to all parties to the dispute.

Failure to have expressed their opposition in writing to the mediator within 3 months from the date of receipt of his proposal will result in the parties being deemed to have accepted such proposal.



Chapter V: Standing committee on the control of royalty collection and distribution companies

Article R325-1

(inserted by Decree No. 2001-334 of 17 April 2001 art. 3 Official Journal of 18 April 2001)

The Standing Commission on the control of royalty collection and distribution companies instituted by article L.321-13 is called at the summoning of its chairman.

It can validly deliberate in the presence of a quorum of three of its members.

These deliberations will be adopted by the majority of members present, the chairman having the casting vote in the event of a deadlock. The reporter who was appointed in terms of the last paragraph of I of article L.321-13 attends to the deliberations.

The Commission can hear the directors of royalty collection and distribution companies, their affiliates and organizations controlled by such companies and those persons who, in the opinion of the chairman, is considered useful.

The Commission undertakes to take all measures to protect the secrecy of these inspections.

Article R325-2

(inserted by Decree No. 2001-334 of 17 April 2001 art.3 Official Journal of 18 April 2001)

The Commission fixes its annual work programme as recommended by the chairman.

The decision to an inspection is notified by registered letter to the company or organization who has raised the objection.

The request for documents and information is addressed, to the company or the organization supervised, by a letter setting a time frame within which to respond to it.

This period may not be for a period of less than thirty days.

Inspection is subject to prior written notification.

Article R325-3

(inserted by Decree No. 2001-334 of 17 April 2001 art.3 Official Journal of 18 April 2001)

The provisional report of inspection, established by the reporter and adopted by the Commission, is communicated by the Chairman to the inspected company or organisation, which has thirty days in order to put forward its observations or asks that its representatives be heard by the Commission.



The final verification report is adopted by the Commission after examination of the observations of the company or organization under investigation and, if needs be, after examination of the representatives. The observations of the company organization are annexed to the report. This report is addressed to the company or organization. It is also sent to the Minister responsible for Culture.

Article 325-4

(inserted by Decree No. 2001-334 of 17 April 2001 art.3 Official Journal of 18 April 2001)

The annual report provided for in III of article L.321-13 is established on the basis of verification of facts by the Commission at the instance of its investigations.

The observations of the Commission putting in issue a company or organization communicated with earlier. The company or organization has a period of thirty days within which to put forward its observations or ask that its representatives be heard by the Commission. The observations of the company or organization are annexed to the report.

Chapter I: General Provisions

Article R331-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The agents designated by the National Center for Cinematography, by the professional bodies of authors and by the societies referred to in Title II of this Book shall be required, after having been approved by the Minister responsible for culture, to take an oath before the judge of the first instance court of their place of residence. The formulation of the oath shall be as follows: "I swear to carry out my duties correctly and faithfully and to neither reveal nor use anything of which I may obtain knowledge during the exercise of my duties."

Chapter V: Penal Provisions

Article R335-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for withholding of goods by the customs administration referred to in Article L. 335-10 shall include:

- 1°. The surname and forenames or the company name of the requester, his place of residence or of business;
- 2°. Where appropriate, the name and address of a representative and proof of his powers;
- 3°. The capacity of the requester with respect to the rights that he wishes to assert, attested to by any means;



- 4°. All elements that will permit the infringing work or service to be identified;
 - 5°. A description of the allegedly infringing goods for which withholding is requested.
- The request may be made prior to entry of the allegedly infringing goods onto the French territory. In such case it shall be valid for one year and may be renewed.
- The conditions for submitting the request shall be detailed in an order issued by the Minister responsible for the budget.

Article R335-2

(inserted by Decree No. 96-103 of 2 February 1996 art. 2 Official Journal of 9 February 1996)

Any publication or user's handbook concerning means of removing or circumventing any technical device protecting software, which does not bear a notice in clear characters that the unlawful use of such means is liable to the penalties laid down for cases of infringement shall incur the penalties laid down for offenses of the third class.

Section 1: Organization of the National Institute of Industrial Property

Article R411-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The National Institute of Industrial Property shall have the following duties, in particular:

- 1°. Examination of patent applications and the grant of patents and the issue of any relevant documents;
- 2°. Registration and publication of trademarks and service marks;
- 3°. Issue of certificates of identity and the provision of information concerning anticipations with respect to trademarks and service marks;
- 4°. Centralization and keeping of the deposits of industrial designs, and their publication;
- 5°. Registration and keeping of deposits of dual envelopes intended to facilitate proof of the creation of industrial designs;
- 6°. Keeping of registers of patents, of trademarks and of industrial designs, entry of all acts affecting the ownership of patents, trademarks or service marks and industrial designs;
- 7°. Implementation of the provisions contained in the laws and regulations concerning temporary protection of industrial property at exhibitions, concerning industrial awards and concerning marks of origin;
- 8°. Implementation of the international agreements with respect to industrial property, particularly administrative relations with the International Bureau for the Protection of Industrial Property in Berne and the International Patent Institute in The Hague;



9°. Keeping the National Register of Commerce and Companies and the Central Directory of Trades;

10°. Keeping the filings of instruments that establish companies and the modifications thereto filed with the registrars of the commercial courts and the civil courts that act in their stead;

11. Centralization of the information given in the registers of commerce and trades and the official bulletins of those registers;

12. Centralization, keeping and availability to the public of all technical and legal documentation concerning industrial property;

13. Administration of the Official Bulletin of Industrial Property.

In order to exploit its documentary holdings, the Institute may set up databases, where appropriate, in conjunction with other files or registers. It may, for that purpose, set up subsidiary firms or enter into financial participation.

Article R411-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Director General of the National Institute of Industrial Property shall represent the Institute in all civil acts.

The staff of the Institute shall be under his orders.

He shall take all measures necessary for the operation of the Institute.

He shall prepare and implement the budget. He shall establish the receipt titles. He shall commit, liquidate and order expenditure within the limit of the budget appropriations.

He may delegate certain of his tasks to one or more agents of the Institute, designated by him.

He may receive delegation of signature from the Minister responsible for industrial property in order to exercise the duties placed upon the latter in the fields of industrial property and of rights related to industrial property, of the National Register of Commerce and Companies and of the Central Directory of Trades.

Article R411-3

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-845 of 10 September 1997 art. 1 Official Journal of 17 September 1997)

The Administrative Council shall comprise 12 members:

1. A member of the Conseil d'Etat or of the Court of Audit, as Chairman, appointed for three years by order of the Minister responsible for industrial property;

2. The Chairman of the Industrial Property Council or a member of that Council designated by him;



3. The Director of Civil Affairs and of the Seal of the Ministry of Justice or his permanent representative;
4. The Director of the Budget of the Ministry of the Economy, Finance and the Budget or his permanent representative;
5. The Director of Public Accounting of the Ministry of the Economy, Finance and the Budget or his permanent representative;
6. Two representatives of the Minister responsible for industrial property, including the Director of General Administration;
7. The Director General of the National Research Development Agency;
8. The Chairman of the National Society of Industrial Property Agents;
9. One representative of the industrial circles concerned by industrial protection, designated by the Minister responsible for industrial property for a renewable period of three years;
10. Two representatives of the serving staff of the establishment, elected in accordance with the conditions laid down by order of the Minister responsible for industrial property.

The functions of member of the Administrative Council shall not be remunerated. They shall give entitlement to the travel and subsistence allowances laid down in Decree No. 90-437 of 28 May 1990.

The Director General, the State Controller and the accounting agent shall attend sessions of the Administrative Council in a consultative capacity. The Chairman may call upon any person whose presence he deems useful to attend sessions in a consultative capacity.

The Secretariat of the Administrative Council shall be provided by an agent of the Institute designated for that purpose by the Director General.

Article R411-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Administrative Council shall give opinions on matters entered on its agenda by the Director General of the National Institute of Industrial Property.

It shall be consulted by obligation on the budget drafts and, in general, on all draft decisions to be submitted for the approval of the Ministers concerned or the Ministers responsible for the financial control of the establishment.

The Administrative Council shall be required to give its opinion on the matters that are obligatorily submitted to it within one month as from the date on which the Chairman has been seized thereof. On expiry of that time limit, the Director General may, if the urgency of the matter so requires, submit the draft decisions directly for the approval of the Ministers referred to in the preceding paragraph.

Article R411-5



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Administrative Council shall meet, in principle, once during each quarter. It shall be convened by its Chairman.

Its deliberations shall be valid only if at least seven of its members attend the session.

If the quorum is not achieved, a new convocation shall be addressed to the members. The Council shall deliberate validly in such case whatever the number of members present.

In the event of equally divided voting, the Chairman shall have a casting vote.

Article R411-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The numbers of contractual staff belonging to the Institute shall be laid down each year within the limits of the budget appropriations for that establishment.

The status of the staff shall be laid down by decree.

Article R411-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The accounting agent shall be appointed, and if necessary, replaced or revoked, by order of the Minister concerned and of the Minister responsible for finance. His remuneration shall be laid down in the same manner.

He shall be placed under the authority of the Director General. However, he shall be personally and monetarily responsible for the acts of his administration and shall receive from the Minister responsible for finance directives concerning execution of the financial part of his service.

He shall be required, prior to his installation, to take oath before the Court of Audit and to evidence the provision of security of which the amount shall be laid down by order of the Minister responsible for finance and economic affairs. His administration shall be subject to verification by the General Inspectorate of Finances and by the General Collector of Finance of Paris and to checking by the Court of Audit.

He may, at his own responsibility, delegate his signature to one or more agents of the establishment whom he shall appoint as his signing clerks by means of a regular letter of authority.

Article R411-8

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



(Decree No. 97-845 of 10 September 1997 art. 2 Official Journal of 17 September 1997)

The control of the National Institute of Industrial Property, particularly the a posteriori control of the budget implementation, shall be carried out by a State Controller, in accordance with the conditions laid down in Decree No. 55-733 of 26 May 1955 as amended codifying and adapting the texts relating to the economic and financial control of the State.

The special conditions for exercising this control shall be laid down by a joint order of the Ministers responsible for industrial property, for the economy and for the budget.

Article R411-9

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-845 of 10 September 1997 art. 1, art 3 Official Journal of 17 September 1997)

The draft budget of the Institute, accompanied by the opinions of the Administrative Council and the State Controller, shall be submitted by the Director General of the Institute for approval to the Minister concerned and to the Minister responsible for the budget within the time limits stipulated with respect to the general budget of the civil service by means of the joint letter from the Minister for the budget.

Any amendments that may be made to the budget during its implementation shall be submitted and approved in the same manner.

The Minister responsible for the budget may delegate his signature to the State Controller with respect to the approval decisions referred to in this Article.

Article R411-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The resources of the National Institute of Industrial Property shall be constituted by:

- 1°. The proceeds of all authorized levies with regard to industrial property, the registers of commerce and trades and the filing of company statutes;
- 2°. All revenue that may be levied by the Institute as remuneration for services rendered;
- 3°. The proceeds from the sale of publications;
- 4°. Revenue from assets and the proceeds of their sale;
- 5°. The proceeds of any refunds made by international industrial property organisms in which France participates;
- 6°. Funds deriving from authorized loans;
- 7°. Any other resources deriving in particular from donations, legacies, gifts and assistance funds.



Article R411-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The costs of the National Institute of Industrial Property shall comprise:
1°. The expenditure for running and equipping the Institute;
2°. The expenditure related to participation by France in the international industrial property organisms.

Article R411-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The contracts for work and supplies issued by the Institute shall be governed by the legislative and regulatory provisions applicable to State contracts.

Article R411-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Director General of the National Institute of Industrial Property shall keep accounts of the issue of vouchers for receipts, commitment, liquidation and payment orders for the expenditure.

Article R411-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The accounting agent shall be exclusively responsible for the recovery of outstanding debts and for payments.

He shall be responsible for the revenue vouchers communicated to him by the Director General. He shall be required, under his personal responsibility, to make all efforts to ensure the receipt of all resources of the establishment, to effect the necessary enforcement measures against outstanding debtors, to notify the Director General of the expiry of leases, to ensure that time limits are not exceeded, to ensure the maintenance of rights, privileges and mortgages and to apply for entry in the mortgage register of the appropriate titles.

He shall effect the amicable collection of debts outstanding. Where this is not possible, he shall inform the Director General who shall render enforceable the revenue vouchers in accordance with Article 2 of the Decree of 30 October 1935 to improve and facilitate the operation of the legal service and of the judicial agency of the Treasury.

He may only waive legal action on a written order from the Director General.
He shall be responsible for paying the expenditure that is regularly ordered by the Director General.



Article R411-15

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-845 of 10 September 1997 art. 1, art 4 Official Journal of 17 September 1997)

The administrative account of the authorizing officer and the management account of the accounting officer shall be submitted each year to the Administrative Council.

The administrative account, accompanied by the opinion of the Administrative Council and of the State Controller, shall be submitted for approval to the Minister responsible for the budget and to the Minister concerned within three months of the end of the financial year.

The Minister responsible for the budget may delegate his signature to the State Controller for the approval of the administrative account.

Article R411-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The rules with regard to accounting, to the form of budgets and accounts, to the books and to the entries made by the authorizing officer and the accountant shall be laid down in one or more orders signed by the Minister responsible for finance, the Minister responsible for the budget and the Minister concerned.

Section 2: Fees Levied by the National Institute of Industrial Property

Article R411-17

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 96-103 of 2 February 1996 art. 3 Official Journal of 9 February 1996)

The fees levied by the National Institute of Industrial Property in relation to the procedures and formalities relating to industrial property and to the Register of Commerce and Companies shall be those shown in the table below:

Procedural Fees

1. Patents, utility certificates and supplementary protection certificates:

Filing(1);

Search report(1) (2);

Claim in excess of the 11th;

Declaration of priority right;



- Request to enjoy the filing date of an earlier application;
 - New claims requiring an additional search report;
 - Request for correction of errors;
 - Request for continuation of the procedure;
 - Issue and printing of the specification;
 - Maintenance in force;
 - Supplement for late payment of the filing fee or the search report fee;
 - Surcharge for late request for a search report;
 - Surcharge for late payment of the annual fee;
 - Request for restoration;
 - Supplementary protection certificate.
2. European Patents:
- Publication of the translation or revised translation of a European patent or of the claims in an application for a European patent;
 - Making and transmitting copies of the European patent application to the recipient States.
3. International Applications (PCT):
- Transmission of an international application;
 - Confirmation of the designation of States;
 - Surcharge for late payment;
 - Preparation of additional copies.
4. Trademarks and Service Marks:
- Filing;
 - Class of goods or services;
 - Claim to a priority right;
 - Regularization;
 - Opposition;
 - Correction of clerical errors;
 - Renewal;
 - Surcharge for late payment of the renewal fee;
 - Renunciation;
 - Request for entry in the International Trademark Register;
 - Notice of expiry.
5. Industrial Designs:
- Deposit;
 - Extension;
 - Waiving of postponed publication;
 - Waiving the effects of deposit;
 - Regularization, correction, notice of expiry;
 - Registration and keeping of a special envelope.
6. Rights related to Industrial Property:



Topographies of semi-conductor products: filing and keeping; entry of an instrument amending or transmitting rights;

Industrial awards: registration of results, of an award or transcription of an assignment statement or transmission statement.

7.National Registers of Patents, Trademarks, Industrial Designs: request for entry.

8.National Register of Commerce and Companies: Declaration; Filing of an instrument.

(1) Fee refunded if inadmissible.

(2) Fee refunded in the event of refusal, withdrawal, suspension of the grant procedure or prolongation of prohibition on disclosure and free exploitation that occur before the start of the procedure for drafting the search report.

Article R411-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The ancillary revenue that the National Institute of Industrial Property may levy when communicating documents or instruments in its keeping, for the exploitation of its documentary holdings and from the sale of its publications shall be established by deliberation of the Administrative Council that will lay down the conditions for collection and the amount.

Section 3: Appeals Lodged Before the Appeal Court Against Decisions by the Director General of the National Institute of Industrial Property with Respect to the Grant, Refusal or Maintenance of Industrial Property Titles

Article R411-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Appeal Court with territorial competence to hear appeals lodged against decisions by the Director General of the National Institute of Industrial Property with regard to the grant, refusal or maintenance of industrial property titles shall be the court of the place of residence of the person who lodges the appeal, taking into account the groupings effected in Table IV bis annexed to the Code of Judicial Organization reproduced hereafter:

Seat and Jurisdiction of the Courts of Appeal Competent to Hear Directly Appeals Lodged Against Decisions by the Director of the National Institute of Industrial Property with Regard to the Grant, Refusal or Maintenance of Industrial Property Titles



SEAT JURISDICTION extending to the territorial limits of the courts of appeal and the higher courts of appeal of :

Aix-en-Provence : Aix-en-Provence, Bastia, Nîmes.
Bordeaux : Agen, Bordeaux, Poitiers.
Colmar : Colmar, Metz.
Douai : Amiens, Douai.
Limoges : Bourges, Limoges, Riom.
Lyon : Chambéry, Lyon, Grenoble.
Nancy : Besançon, Dijon, Blois, Nancy.
Paris : Orléans, Paris, Reims, Rouen, Versailles, Basse-Terre, Fort-de-France, Saint-Denis-de-la-Réunion, Nouméa, Papeete, Mamoudzou and Saint-Pierre-et-Miquelon.
Rennes : Angers, Caen, Rennes.
Toulouse : Pau, Montpellier, Toulouse.

If such person resides abroad, the Court of Appeal of Paris shall be competent.
Domicile shall be elected within the jurisdiction of that court.

Article R411-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The time limit for lodging an appeal to the court of appeal against decisions of the Director General of the National Institute of Industrial Property shall be one month.
Where appropriate, this time limit shall be extended in accordance with Article 643 of the new Code of Civil Procedure.

Article R411-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Appeals shall be lodged by means of a written declaration addressed or handed in duplicate to the registry of the court. Subject to *ex officio* inadmissibility, the declaration shall comprise the following particulars:

- 1.a) If the petitioner is a natural person: his surname, forenames, profession, domicile, nationality, place and date of birth;
- b) If the petitioner is a legal person: its form, its name, its registered offices and the organ that legally represents it;
2. The date and subject of the contested decision;
3. The name and address of the owner of the title or the holder of the application if the petitioner has neither capacity.

A copy of the contested decision shall be attached to the declaration.

If the declaration does not contain an explanatory statement of the grounds put forward, the appellant shall be required, subject to inadmissibility, to file such statement with the registry within one month following the declaration.



Article R411-22

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The registry of the court of appeal shall transmit to the Director General of the National Institute of Industrial Property, by registered mail with notification of receipt, a copy of the appeal declaration together with, where appropriate, a copy of any subsequent statement of grounds.

On receipt of the copy of the declaration, the Director General of the National Institute of Industrial Property shall transmit to the registry the file of the contested decision.

Article R411-23

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The court of appeal shall take its decision after the Director General of the National Institute of Industrial Property has been enabled to submit written or oral observations.

The written observations shall be transmitted by the Director General of the National Institute of Industrial Property in duplicate to the registry of the court, that shall transmit one copy to the petitioner.

Article R411-24

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the appeal is lodged by a person other than the owner of the title or the holder of the application, the latter shall be implicated by the chief registrar of the court of appeal by registered letter with notification of receipt.

Article R411-25

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The appellant may be assisted before the court of appeal by a lawyer or represented by a solicitor.

Article R411-26

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The decision of the court of appeal shall be notified by the registry to the petitioner, to the Director General of the National Institute of Industrial Property and, where appropriate, to any other person implicated.

Chapter II Committee for the Protection of New Plant Varieties

Section 1: Organization and functions of the Committee for the Protection of New Plant Varieties

Article R412-1

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Committee for the Protection of New Plant Varieties established by Article L.412-1 shall ensure the following duties:

To issue new plant variety certificates corresponding to the applications which satisfy the requirements laid down in Articles L.623-1 to L.623-16, and all official documents concerning such applications and certificates.

To declare the forfeiture of breeders' rights in the circumstances set out in Article L.623-23.

Article R412-2

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Committee for the Protection of New Plant Varieties may propose to the Minister of Agriculture the provisions of a regulatory nature necessary for the application of Articles L.412-1 and L.623-1 to L.623-35 and, in general, submit any suggest suggestions to him relative to the implementation of new plant variety protection.

Article R412-3

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Committee for the Protection of New Plant Varieties shall have its headquarters in Paris. In addition to its Chairman, it shall include ten members appointed by order of the Minister of Agriculture, one of whom shall be put forward by the Minister responsible for the Overseas Departments and Territories, in accordance with the conditions set out in Article L.412-1.

Article R412-4

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)



The magistrate entrusted with the chairmanship of the Committee shall be chosen from the magistrates of the Court of Appeal of Paris or the Tribunal de grande instance of Paris belonging to at least the first grade of the judiciary.

He shall be appointed by joint order of the Garde des sceaux, Minister of Justice and the Minister of Agriculture.

It shall be the duty of the Chairman, outside the Committee's meetings which he shall assume the chairmanship, to ensure the smooth working of the Secretariat General provided for in Article R. 412-10 and to undertake, assisted by the latter, the preparation and execution of the Committee's decisions.

Article R412-5

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Chairman and the members of the Committee shall be appointed for four years. Their term of office may be renewed. Half the members of the Committee shall be renewed every two years. Where, through death or other cause, a member has ceased to exercise his functions, he shall be replaced within a period of two months. The newly-appointed member shall remain in office until the end of the term of office of the member he is replacing.

Article R412-6

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The members of the Committee who are not civil servants shall be subject to the provisions of Decree No. 90-437 of 28 May, 1990, setting out the terms for the reimbursement of travel expenses of State agents and other persons who take part in councils, committees, commissions and other bodies which provide assistance to the State.

Article R412-7

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Chairman and the members of the Committee shall be under an obligation of secrecy in relation to anything that comes to their knowledge in the exercise of their functions. Moreover, a member of the Committee may not take part in the deliberations relating to a plant variety where he has a direct interest in the acceptance or refusal of an application for a certificate.

Article R412-8

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)



The Committee shall meet on convocation by the Chairman whenever necessary. It may only deliberate if the number of members present is more than half the number of members in office. Where the votes are equal, the Chairman shall have a casting vote.

Article R412-9

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

To facilitate the preparation and examination of cases brought before it, the Committee may:

- appoint a standing bureau from among its members;
- set up specialised expert commissions;
- call upon any expert or other person whose advice appears necessary.

Article R412-10

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Committee for the Protection of New Plant Varieties shall have a Secretariat General. The Secretary General shall be appointed by order of the Minister of Agriculture on the Committee's proposal and after consultation with the Director General of the National Institute of Agronomic Research.

The Secretary General shall call upon the assistance of agents recruited by the Director General of the National Institute of Agronomic Research under the same conditions as those governing its own agents. Their remuneration shall be drawn from the special section referred to in Article L.623-16.

Management of the staff shall be assumed by the Secretary General, by delegation of power from the Director General of the National Institute of Agronomic Research.

The Secretary General shall, in particular, have the following duties, in accordance with the Committees directives and under the authority of the Chairman, and within the terms of Articles L.412-1 and L.623-1 to L.623-35 and its implementing legislation:

- to receive, register and examine applications for new plant variety certificates and oppositions to the issue of such certificates;
- to maintain the various registers relating to the protection of new plant varieties, to ensure that all acts affecting the ownership of certificates are recorded and to publish the various notices provided for;
- to keep in contact with all the competent bodies and, in particular, insofar as concerns questions of denomination, with the National Institute of Industrial Property and the Office of the International Union Protection of New Plant Varieties together with the experts to whom the technical examination of plant varieties is conferred;
- to provide the secretariat for Committee meetings;
- to draw up the new plant variety certificates and to issue all copies of official documents;



- to inspect or arrange for the inspection of the conservation of all varieties for which certificates have been issued;
- to plan the budget relating to the special section of the budget of the National Institute of Agronomic Research referred to in Article L.623-16.

The Secretary General shall draw up the implementing legislation of the aforementioned provisions which shall be submitted by the Committee to the Minister of Agriculture. He shall prepare and take part in the negotiation of international agreements proposed by the Committee to the Minister of Agriculture and to the Minister of Foreign Affairs to be passed with a view to facilitating or improving the protection of new plant varieties.

Article R412-11

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Committee for the Protection of New Plant Varieties and its Secretariat General shall be considered, in accordance with the provisions of Article 30-1 (B) of the Convention of Paris for the Protection of New Varieties of Plant of 2 December, 1961, as the authority entrusted with the protection of new plant varieties in France. For this purpose, the Secretariat General of the Committee shall keep in contact with the International Union for the Protection of New Varieties of Plants and shall participate in its work.

Article R412-12

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The special section of the budget of the National Institute of Agronomic Research, created by Article L.623-16, shall be decided upon by the administrative board of this Institute following consultation with the Committee for the Protection of New Plant Varieties. The income and expenses of this special section shall be administered by the Secretary General of the Committee for the Protection of New Plant Varieties, by delegation of power from the Director of the National Institute of Agronomic Research and under the same conditions as those applying to the income and expenses of the Institute.

Article R412-13

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The resources of the special section shall, in particular, consist of the income from all fees that are chargeable in relation to the protection of new plant varieties, in accordance with Article L.623-16.



Article R412-14

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The liabilities of the special section shall consist of:

- operational and equipment expenses of the Committee and its Secretariat General, including staff salaries and travel expenses;
- the costs of technical examinations and, where required, of making reference collections;
- the financial contribution of France to international organisations concerned with the protection of new plant varieties ;
- any other expenses resulting from the application of Articles L.412-1 and L.623-1 to L.623-35.

Section 2: Appeals against decisions of the Committee for the Protection of New Plant Varieties

Article R412-15

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The time limit for lodging an appeal before the Court of Appeal of Paris against decisions of the Committee for the Protection of New Plant Varieties shall be one month. Where the petitioner resides outside Metropolitan France, this period shall be extended by one month if he resides in Europe and by two months if he resides in any other part of the world.

Article R412-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The time limit for lodging an appeal provided for in the preceding Article shall run from the date of receipt by the petitioner of notification of the Committee's decision.

Article R412-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Appeals shall be lodged by means of a written request addressed to the senior presiding judge of the Court of Appeal of Paris by the applicant in person or by counsel practising at the Court of Appeal or by a attorney-at-law duly registered at a Bar.



Where the petitioner is unable to appear in person, he may be represented or assisted as provided for in the first paragraph of this Article.

Article R412-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where the appeal is lodged by any person other than the owner of the application for a new plant variety certificate, the latter shall be implicated by the Senior Registrar of the Court of Appeal by registered letter with acknowledgement of receipt.

Article R412-19

(inserted by Decree No. 95-385 of 10 April 1995, Official Journal of 13 April 1995)

The Court of Appeal shall render its decision after the Public Prosecutor has been heard.

Article R412-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any appeal lodged against decisions of the Committee for the Protection of New Plant Varieties shall be declared within fifteen days by the Registrar of the Court of Appeal to the Committee by registered letter with acknowledgement of receipt.

The decision rendered by the Court of Appeal on the contested file shall be notified by the Registrar to the petitioner and to the Committee for the Protection of New Plant Varieties by the same means.

Article R412-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Court Registrar shall send a copy of the decision to the Committee for the Protection of New Plant Varieties.

This decision shall ex officio be recorded in the National Register of New Plant Variety Certificates.

The decision of the Court of Appeal shall be executed within two months of its notification.

Chapter III Industrial Property Council



Article R413-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

There shall be established an Industrial Property Council under the supervision of the Minister responsible for industrial property. The Council shall have an advisory role. It shall give its opinion on the matters submitted to it by the Minister.

Article R413-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Industrial Property Council shall be comprised as follows:

1°. The permanent representative of the Ministry of Foreign Affairs;

The permanent representative of the Ministry of the Budget;

The permanent representative of the Ministry of Justice;

The permanent representative of the Ministry of Defense;

The permanent representative of the Ministry of Culture;

The permanent representative of the Ministry of Agriculture;

The permanent representative of the Ministry of Health;

The Director General of the National Institute of Industrial Property;

The Director of the Center for International Industrial Property Studies or his permanent representative;

The Director General of the National Research Development Agency or his permanent representative;

2°. Four professors of law;

Four persons representing the interests of employees;

Two inventors or engineers;

Eight persons representing the interests of trade and industry;

The President of the National Society of Industrial Property Agents and four industrial property attorneys;

Four lawyers;

Four persons competent in respect of industrial property.

The members referred to in the second subparagraph above shall be appointed for five years by order of the Minister responsible for industrial property.

Article R413-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Minister responsible for industrial property shall designate from amongst the members of the Council a Chairman and a Deputy Chairman.



Article R413-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee may establish from within its membership temporary commissions to examine specific matters. It may also, where it deems useful, involve competent persons in its work in an advisory capacity.

Article R413-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The secretariat of the Council shall be provided by the National Institute of Industrial Property.

Chapter I: Entry in the List of Persons Qualified with Respect to Industrial Property

Article R421-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The entry of a natural person in the list of persons qualified in industrial property referred to in Article L. 421-1 shall be subject to compliance with all of the following conditions:

1°. Possession of a legal, scientific or technical national second cycle diploma issued by a scientific, cultural and professional public establishment within the meaning of Act No. 84-52 of 26 January 1984 empowered to issue such diploma or of a qualification recognized as equivalent in accordance with the conditions laid down by joint order of the Keeper of the Seals, Minister for Justice, the Minister responsible for industrial property and the Minister responsible for higher education;

2°. Possession of a diploma issued by the Center for International Industrial Property Studies (CEIPI) of the University of Strasbourg or of a qualification recognized as equivalent in accordance with the conditions laid down by joint order of the Keeper of the Seals, Minister for Justice, the Minister responsible for industrial property and the Minister responsible for higher education;

3°. At least three years of professional experience;

4°. To have passed an examination of competence of which the conditions and program shall be laid down, for each specialization, by joint order of the Keeper of the Seals, Minister for Justice, the Minister responsible for industrial property and the Minister responsible for higher education. The examinations shall be adapted for the professional representatives before the European Patent Office.



Article R421-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

No person may be entered in the list if:

- 1°. He has committed acts that have led to a criminal conviction for acts contrary to honor, honesty or morality;
- 2°. For acts of the same nature, he has received a disciplinary or administrative sanction involving dismissal, striking off, removal, withdrawal of approval or authorization;
- 3°. He is declared personally insolvent or is subject to other sanction pursuant to the legislation on judicial settlement, liquidation of assets, personal insolvency and bankruptcy or under the legislation on the rehabilitation and judicial liquidation of enterprises.

Article R421-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

As set out in Article R. 79 of the Code of Criminal Procedure:

(...) the number 2 bulletin of the police record has been issued;

(...) 24°. To the Director General of the National Institute of Industrial Property for entry in the list of persons qualified in industrial property and in the list referred to in Article L. 422-5.

Article R421-4

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 1 I Official Journal of 24 September 1997)

The reference to the specialization that accompanies the entry of persons qualified in industrial property may be either that of patents or that of trademarks, industrial designs, based on professional experience, supplemented as appropriate by that of engineer or of lawyer, based on diplomas.

Where appropriate, more than one mention may be entered.

An order of the Minister responsible for industrial property may provide for further specialization mentions if new professional qualifications in industrial property should arise.

Article R421-5

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 1 II Official Journal of 24 September 1997)



The professional experience referred to in Article R. 421-1 (third indent) shall be constituted by the exercise as the main occupation of study, advice, assistance or representation activities with respect to industrial property, related rights and rights concerning any related matter.

The professional experience shall have been acquired in France in the subject matter that corresponds to the specialization mention sought and under the responsibility of a person qualified in industrial property who is entered with the same mention.

If the experience has not been acquired under the responsibility of such a person, the board referred to in Article R. 421-6 may, on examination of the file, admit a candidate to the examination if his experience has been recognized as equivalent in its content, its scope and its compliance with the usual standards in the specialization concerned.

Article R421-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The board responsible for supervising the examinations referred to in Article R. 421-1 (fourth indent) shall comprise one magistrate of the judiciary, as chairman, one university professor teaching private law, one lawyer and four persons qualified in industrial property.

Each member unable to attend shall be replaced by an alternate.

The conditions for designating the members of the board and their alternates shall be laid down by joint order of the Keeper of the Seals, Minister for Justice, of the Minister responsible for industrial property and the Minister responsible for higher education.

Article R421-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The conditions referred to in Article R. 421-1 with regard to diplomas, training and professional examinations, shall not apply to persons who have successfully completed a cycle of studies of a minimum duration of three years or of an equivalent duration of part-time attendance at a university or an establishment of higher education or in another establishment with the same level of training and, where appropriate, the professional training required in addition to such cycle of studies and who holds:

1°. Either a diploma, certificate or other title permitting the exercise of the profession in a Member State of the European Union issued:

a) By the competent authority of that State and certifying to training acquired predominantly within the Union;

b) Or by an authority of a third country provided that an attestation is furnished from the competent authority of the Member State that has recognized the diploma, certificate or other title certifying to the fact that its holder has professional experience of at least three years in that State;



2°. Or full-time exercise of the profession during at least two years during the preceding ten years in a Member State that does not regulate access to or exercise of that profession provided that such exercise be attested to by the competent authority of that State.

Article R421-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The treatment referred to in Article R. 421-7 shall be subject to successfully passing an examination of competence before the board referred to in Article R. 421-6 of which the program and conditions shall be laid down by joint order of the Keeper of the Seals, Minister for Justice, and of the Minister responsible for industrial property:

1°. Either where the training of the candidate covers matter that is substantially different from that contained in the programs for the diplomas and the professional examination referred to in Article R. 421-1;

2°. Or where one or more of the professional activities of which exercise is subject to holding such diploma or such examination are not regulated in the Member State of origin or last residence or are regulated in a different manner and such difference is characterized by specific training required in the first Member State covering matter that is substantially different from that covered by the diploma presented by the applicant.

The list of candidates accepted for the examination shall be drawn up by the Director General of the National Institute of Industrial Property.

Article R421-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The application for entry shall be submitted to the Director General of the National Institute of Industrial Property. It shall be accompanied by proof that the conditions laid down in Article R. 421-1 or in Articles R. 421-7 and R.421-8 have been satisfied.

A receipt for the application shall be issued.

Article R421-10

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 1 III Official Journal of 24 September 1997)

The decision of the Director General of the Institute with regard to the application for entry, failing which, after decision of the jury in accordance with Article R 421-5, shall be notified to the concerned party. Refusal shall be reasoned.



Article R421-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any person entered in the list may at any time request to be removed from the list.

Any person subject to any of the measures referred to in Article R. 421-2 shall be removed from the list by the Director General of the Institute. Removal shall be reasoned and the decision taken after the party concerned has been enabled to submit his observations.

Article R421-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Entries and removals shall be published in the Official Bulletin of Industrial Property.

The updated list of qualified persons shall be published at the beginning of each calendar year in the Bulletin.

Section 1: Entry in the List of Industrial Property Attorneys

Article R422-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 2 I Official Journal of 24 September 1997)

Any person qualified in industrial property and entered in the list referred to in Article R. 421-1 may apply to be entered, with the same notice of specialization, in the list of industrial property attorneys referred to in the third paragraph of Article L. 422-1.

The notice "patents" permits action in the procedures referred to in Article R. 612-2. The notice "trademarks, industrial designs" permits action in the procedures referred to in Articles R. 712-2 and R. 712-13.

However, persons entered with the notice "lawyer" under the procedure set out in I of Article 36 of the Decree of 1 April 1992 on qualification and professional organization with respect to industrial property may carry out the acts defined in Articles R. 712-2 and R. 712-13.

Article R422-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 2 II Official Journal of 24 September 1997)

(Decree No. 2002-215 of 18 February 2002 art. 2 Official Journal of 20 February 2002)



Entry in the list referred to in Article R. 422-1 shall be subject to the following conditions:

- 1°. To offer to the public the services referred to in Article L. 422-1 or undertake to do so within three months, either individually or in a group or as the employee of another industrial property attorney or of a company of industrial property attorneys;
- 2°. To have French nationality or be a national of another Member State of the European Union, or of another State party to the agreement on the European Economic Area;
- 3°. To have a place of residence or a professional establishment in France;
- 4°. Provide evidence of the insurance and the guarantee referred to in Article L. 422-8 or undertake to provide such evidence within a period of three months; this evidence shall be produced each year after entry.

Article R422-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The application for entry shall be submitted to the Director General of the Institute. The evidence that the conditions referred to in Article R. 422-2 have been satisfied shall be attached to the application.

Article R422-4

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 2 III Official Journal of 24 September 1997)

The Director General of the Institute shall make the entry, after having heard the opinion of the National Society of Industrial Property Attorneys. Such opinion shall be deemed to have been given if the Society does not formulate an opinion within one month as from having been approached.

Refusal to enter shall be taken on a reasoned decision to be notified to the party concerned.

The entry of natural persons shall be made in the name of the industrial property attorney followed by the title of the practice within which he performs his duties or, in the case of a company, by its registered name or title.

If the industrial property attorney does not furnish the evidence that he satisfies the conditions laid down in Article R. 422-2, particularly those required by item 4 of that Article, he shall be invited by the Director General of the Institute to regularize his situation within the time limit set forth in that invitation.

If, on expiry of the time limit referred to in the preceding paragraph, the person concerned has not regularized his situation, the Director General of the Institute shall



pronounce his suspension, which shall cease to have effect once the situation has been regularized. Suspension shall be published in accordance with Article R. 422-66.

A suspension shall also be ordered, in accordance with the conditions laid down in the preceding paragraphs, with respect to any company that no longer satisfies the conditions laid down in Article L. 422-7.

The Director General of the Institute shall remove from the list referred to in Article R. 422-1 any industrial property attorney whose suspension has continued for more than six months.

Article R422-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any person entered in the list of industrial property attorneys may request to be removed from the list. He shall be required to do so if he no longer satisfies the conditions set out in Article R. 422-2. The request shall be submitted to the Director General of the Institute who shall effect the removal after having obtained the opinion of the National Society of Industrial Property Attorneys.

Removal shall be suspended if the case is submitted to the disciplinary board referred to in Article L. 422-10.

Article R422-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where the profession is exercised as a company, entry of the company in the special section referred to in Article L. 422-7 shall be applied for collectively by all the partners. It shall be accompanied by proof of the filing of the application for entry in the Register of Commerce and Companies.

The Director General of the Institute shall effect the entry as set out in Article R. 422-4 and shall notify his decision to the registrar responsible for keeping the Register of Commerce and Companies at the court with which the corresponding application for entry was filed.

Any decision to remove a company shall be notified, within one month of its date, to the registrar responsible for keeping the register in which the company has been entered.

Article R422-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The registered capital of an industrial property attorneys company as referred to in Article L. 422-7(b) may be held, in accordance with Article L. 423-2(e), by an industrial property attorney for only 25 per cent if the purpose of the company is to associate one or



more industrial property attorneys with other providers of services carrying out as their main activity one of the following:

- 1°. Construction of prototypes;
- 2°. Licensing intermediary services;
- 3°. Creation of trademarks;
- 4°. Funding of innovation.

Section 1bis : Free provision of service by representatives in industrial property established within the territory of a member State of the European Community or a State party of the agreement on the European Economic Area

Article R422-7-1

(inserted by Decree No. 2002-215 of 18 February 2002 art. 3 Official Journal of 20 February 2002)

When a professional person residing in a Member State of the European Community or in a State that has signed up to the agreement on the European Economic Area is authorised to represent persons owning industrial property before the central service of industrial property in that State, they may use their professional title in France, expressed in one or other of the languages of that State, to represent persons before the National Institute of Industrial Property, once their title has been certified by the competent authority of the State in which they are established.

When the exercise of the profession in the State where the party concerned is established does not depend on the possession of a regulated title, the professional person must provide the National Institute of Industrial Property with proof, in the form of a certificate from the competent authority of the State, that they have habitually practised in such a capacity for at least two years in the course of the last ten years.

Article R422-7-2

(inserted by Decree No. 2002-215 of 18 February 2002 art. 3 Official Journal of 20 February 2002)

The professionals mentioned in Article R. 422-7-1 shall undertake, in the exercise of their activity in France, to respect the rules set forth in Articles L. 422-8 et R. 422-52 to R. 422-54. They shall be subject to the provisions of Articles R. 422-56 to R. 422-66 and the sanctions set forth in Article L. 422-10 shall be applicable to them.

Nevertheless, the disciplinary measure of temporary or definitive prohibition shall be replaced by a sanction with the effect of temporarily or definitively prohibiting them from exercising professional activities in France. The Disciplinary Board can ask the competent authority of the State of origin of the communication professional information on the parties concerned.



It shall inform the latter authority of all decisions made. These communications shall not compromise the confidential nature of the information provided.

Section 2: The National Society of Industrial Property Attorneys

Article R422-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The natural persons entered in the list of industrial property attorneys shall constitute the National Society of Industrial Property Attorneys referred to in Article L. 422-9.

Article R422-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Society shall establish its rules of procedure. They shall enter into force following approval by a joint order of the *Garde des sceaux*, Minister for Justice, and the Minister responsible for industrial property.

Article R422-10

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 2 IV Official Journal of 24 September 1997)

The General Assembly of the Society shall elect for two years from amongst its members, by a secret ballot, an office comprised of nine persons, including a President, three Vice Presidents, a Secretary, a Treasurer and three members. The ballot shall be by voting for a single person for the functions of President, Secretary and Treasurer. The Vice Presidents and the other members, respectively, shall be elected by voting for more than one member. The conditions for the ballot shall be laid down in the Rules of Procedure.

With the exception of the establishment of the Rules of Procedure, of the vote for the annual budget of the Society and of other attributions reserved, where appropriate, for the General Assembly by the Rules of Procedure, the Office shall carry out the administration of the Society. It shall ensure application of resolutions adopted in the General Assembly. It may have at its disposal a permanent secretariat and may set up standing or temporary committees for which it shall define the tasks.

Article R422-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



In addition to any gifts or legacies made to it and participation in various of its costs, the resources of the Society shall derive from the annual membership fees.

The basic rate for the annual membership fee shall be the same for all members. This shall be supplemented on a basis which takes into account the turnover achieved, where appropriate, by companies.

The method for calculating and the conditions for collecting the membership fees shall be laid down in the Rules of Procedure of the Society. The rate shall be laid down each year by the General Assembly.

Section 3 Exercise in the Form of a Company

Sub-Section 1: Professional Civil Act Companies

Article R422-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Two or more industrial property attorneys entered in the national list of industrial property attorneys referred to in Article L. 422-1 may together constitute a professional civil law company for the exercise in common of the profession of industrial property attorney.

However, the company may be constituted, exclusively or not, by natural persons not entered in the national list of industrial property attorneys but who meet the conditions required to be entered in that list, on condition that each such person applies for his entry at the same time, at the latest, as that of the company.

Article R422-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The company shall be constituted subject to the suspensive condition of its entry in the national list of industrial property attorneys. In accordance with the third paragraph of Article 1 of Act No. 66-879 of 29 November 1966, it shall enjoy legal personality as from such entry. (Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Article R422-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The application for registration of the company in the Register of Commerce and Companies shall be drawn up in accordance with the conditions set out in Article 15 of Decree No. 84-406 of 30 May 1984 relating to the Register of Commerce and Companies.



Notwithstanding Articles 22, 24 and 26 of Decree No. 78-704 of 3 July 1978, the company shall be exempted from publishing the notice referred to in those Articles in a journal of statutory announcements.

The notices published in the Official Bulletin of Civil and Commercial Announcements shall contain the particulars referred to in Article 73 of the Decree of 30 May 1984, except for those relating to the surname and forenames of the partners liable indefinitely and jointly for the company debts.

Article R422-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the statutes are established by means of simple contract, a sufficient amount of originals shall be drawn up to communicate one copy to each partner and to satisfy the provisions of Article 7 of Decree No. 78-704 of 3 July 1978 and those of this subsection.

Article R422-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Notwithstanding the provisions that are to be included in the statutes according to Articles 10 and 11 of Act No. 66-879 of 29 November 1966, those which they may contain under Articles 8, 14, 15, 19, 20 and 24 of that same Law, concerning, respectively, the distribution of shares, the administrators, the company name, the distribution of profits, the company debts, the assignment of shares in the company and the dissolution of the company, and of Articles R. 422-6 and R. 422-7, the statutes shall be required to state:

- 1°. The surnames, forenames and places of residence of the partners, their marital status and, where appropriate, the existence of any clauses, acts invocable against third parties or decisions restricting the free disposal of their assets;
- 2°. The title of each of the partners;
- 3°. The duration for which the company is formed;
- 4°. The address of the registered offices;
- 5°. The nature and separate evaluation of each of the contributions made by the partners;
- 6°. The amount of the company capital, the nominal amount, the number and distribution of company shares represented by that capital;
- 7°. Confirmation of the full or part liberation, as appropriate, of the contributions that are comprised in the company capital;
- 8°. The majority required in order to transfer or assign shares to third parties;
- 9°. The amount of the partnership shares allocated to each subscriber to the company;
- 10°. The special provisions referred to in Articles R. 422-20 and R. 422-21.



Article R422-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The following may constitute contributions to a professional civil law company, in ownership or in possession:

- 1°. All intangible rights, whether movable or real, particularly, where appropriate, the right for a partner to present the company as successor to his customers;
- 2°. All documents and archives and, in general, all movable objects for professional use;
- 3°. The buildings or premises used for exercise of the profession;
- 4°. All amounts in cash.

The contributions in diligence to the company made by the partners which, by reason of Article 10 of the Act of 29 November 1966, do not contribute to building the capital may give rise to an allocation of partnership shares.

Article R422-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The shares in the company may not be given in security.
Their face value may not be less than FRF 1,000.

The partnership shares allocated to the subscribers shall not be assignable. They shall be cancelled when their holder loses his capacity as partner for any reason whatsoever.

Article R422-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The shares of the company that correspond to the contributions in cash shall be paid up, on subscription, to at least one half of their face value.

The paying up of the remainder should be effected, in one or more payments, either on the dates specified in the statutes or by a decision of the assembly of partners, and at the latest within two years as from entry of the company in the national list of industrial property attorneys.

Within eight days of receipt, the funds from cash subscriptions shall be deposited for the account of the company with the Deposit and Consignment Office, with a notary or in a bank.

Withdrawal of such funds shall be carried out by an authorized representative of the company on simple proof of entry of the company in the national list.

Article R422-20



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The statutes shall lay down the management and determine the powers of the managers in accordance with the conditions of Article 11 of the Act of 29 November 1966.

Article R422-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Decisions that go beyond the powers of the managers shall be taken by the partners meeting in assembly.

The assembly shall be convened at least once a year. It shall also be convened at the request of at least one half of the partners, whereby the request shall state the agenda.

The conditions for convening the assembly shall be laid down in the statutes.

Article R422-22

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The statutes may afford a reduced number of votes to partners who exercise their profession on a part-time basis only.

They may also allocate a reduced number of votes to partners for as long as the company shares they hold have not been fully paid up.

Each partner may be represented by another partner holding written powers. A partner may not hold more than two powers.

Article R422-23

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Subject to the provisions of Article 19 of the Act of 29 November 1966 and those of this subsection that impose special conditions with respect to majority, decisions shall be taken on a majority of the votes held by the partners that are present or represented.

However, the statutes may require a larger majority or even unanimity of the partners for all decisions or for those decisions only that they enumerate.

Article R422-24

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Amendment to the statutes and, in particular, prolongation of the company shall be decided on a majority of three quarters of the votes of all partners.



However, an increase in the competence of the partners shall require a unanimous decision.

Article R422-25

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The deliberations of the partners shall be subject to the provisions of Articles 40 to 47 of Decree No. 78-704 of 3 July 1978.

The assembly may deliberate validly only if at least three quarters of the partners are present or represented. If the quorum is not achieved, the partners shall be reconvened and the assembly shall deliberate validly if two partners at least are present or represented.

The register referred to in Article 45 of Decree No. 78-704 of 3 July 1978 shall be numbered and initialed by the registrar responsible for keeping the Register of Commerce and Companies in which the company is registered.

Article R422-26

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

At the end of each financial period, the manager or managers shall prepare, under the conditions laid down by Article 1856 of the Civil Code, a written general report comprising the annual accounts of the company and a report on the outturn.

Within two months following the end of the financial period, the documents referred to in the preceding paragraph shall be submitted for approval to the assembly of partners.

To that end, those documents shall be communicated to each partner, together with the wording of the proposed resolutions, at the same time as the convening of the assembly and at least 15 days before its meeting.

Article R422-27

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Each partner may, at any time, take cognizance, under the conditions laid down in Article 48 of Decree No. 78-704 of 3 July 1978, of the annual accounts of the company and of the report on the outturn, together with all the registers and accounting documents in the possession of the company.

Article R422-28

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The provisions of Articles 49, 50 and 52 of Decree No. 78-704 of 3 July 1978 shall apply to assignments and transfers of shares in the company and to their publication.

Article R422-29

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the case referred to in the third paragraph of Article 19 of the Act of 29 November, 1966, the price of the shares in the company shall be determined, failing agreement between the parties, in accordance with the provisions of Articles 1843-4 of the Civil Code and 17 of Decree No. 78-704 of 3 July 1978.

Where the assigning partner refuses to sign the instrument assigning his shares at the price thus fixed, his refusal shall be overridden two months after he has been summoned to do so by the company without result, either by registered letter with notification of receipt or by process served by bailiff; the assignment price of the shares shall be consigned at the responsibility of the assignee.

If assignment concerns the totality of the company shares belonging to a partner, that partner shall lose his capacity as partner on expiry of the time limit laid down in the preceding paragraph.

Subject to the rules for the protection and representation of incapacitated persons, the provisions of Article 19 of the Act of 29 November 1966 shall apply to the assignment of the company shares of a partner subject to statutory prohibition or to tutelage of adults; the six-month period referred to in the third paragraph of that Article shall be extended to one year in such case.

Article R422-30

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of the death of a partner, the time limit for assignment referred to in the second paragraph of Article 24 of the Act of 29 November 1966 shall be laid down as one year as from the date of death.

It may be renewed by agreement between the successors in title of the deceased partner and the company reached in accordance with the provisions on the assignment of company shares in the first paragraph of Article 19 of the Act of 29 November 1966.

If consent to the preferential allocation referred to in the second paragraph of Article 24 of the Act of 29 November 1966 is refused and if the successors in title of the deceased partner have not assigned the company shares of their originator on expiry of the time limit allocated to them, the company shall have one year in which to acquire or have acquired the company shares of the deceased partner.

Article R422-31



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the instrument assigning the company shares is drawn up in the form of a private deed, the necessary number of originals shall be produced in order to hand a copy to each party and to comply with the provisions of Article R. 422-28.

In addition, one of the originals of the private deed or a copy of the instrument of assignment of the shares, if it is in the form of an authenticated deed, and possibly any instrument amending the statutes of the company, shall be communicated to the Director General of the National Institute of Industrial Property who, if necessary, shall make the relevant amendment to the entry of the company in the national list of industrial property attorneys.

Article R422-32

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If a partner wishes to withdraw from the company, he shall notify his decision to the company by registered mail with notification of receipt.

The company shall have six months as from notification in order to notify to the partner, in the same form, draft assignment of his shares to a partner or to a third party entered in the list of industrial property attorneys or who satisfies the conditions for entry in that list or a draft redemption of those shares of the company. Such notification shall imply a commitment by the assignee or by the company that acquires the title.

In the event of failure to agree on the assignment price, Article R. 422-29 shall apply.

Article R422-33

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If a partner has been struck off, pursuant to Section 5 of this Chapter, for a period of six months or more, he may be excluded from the company by a decision taken on a majority of the other partners.

The excluded partner shall have a period of six months, as from notification made to him of the decision by registered mail with notification of receipt, in order to assign his shares under the conditions laid down in Articles 19 and 21 of the Act of 29 November 1966 and in Articles R. 422-28 and R. 422-29.

If, on expiry of that period, no assignment has been made, action shall be taken in accordance with the provisions of the third paragraph of Article 19 of the Act of 29 November 1966 and of Article R. 422-29.

Article R422-34



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The shares of the partner definitively removed from the national list of industrial property attorneys shall be assigned under the conditions set out in Article R. 422-33.

Article R422-35

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The number of partners may be increased during the lifetime of the company with or without an increase in the assets of the company.

Article R422-36

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any partner who receives for consideration or gratuitously a right of representation of a customer transmitted by a third party shall be obliged to contribute enjoyment thereof to the company and it shall be for the company to create and issue to him the new company shares that correspond to this additional contribution.

Article R422-37

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the reserves constituted by means of non-distributed profits or the plus value on assets due to the diligence of the partners so permit, the capital of the company shall be periodically increased. The shares in the company created for that purpose shall be distributed between all partners, including those who have contributed only their diligence.

However, the statutes may provide for cases and conditions under which a partner may be excluded from the allocation of shares in the company that had been newly created to represent an increase in the capital.

Article R422-38

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any decision to prolong the company shall be immediately brought to the notice of the Director General of the National Institute of Industrial Property, accompanied by a copy of the full minutes of the meeting, or of the instrument showing prolongation, constituted by one of the originals if the instrument is a private deed or by a copy if it has been drawn up in authenticated form.



Article R422-39

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of amendment of the statutes, a copy of the full minutes of the meeting or of the amending instrument constituted by one of the originals if the instrument is in the form of a private deed or by a copy if it has been drawn up in authenticated form, shall be communicated within two months to the Director General of the National Institute of Industrial Property and to the President of the Society of Industrial Property Attorneys.

If the new provisions of the statutes do not comply with the legislative or regulatory provisions and if regularization is not carried out within the time limit stipulated by the Director General of the National Institute of Industrial Property, the latter, after having invited the company to submit its oral or written observations, shall remove it from the national list of industrial property attorneys under the conditions set out in Articles R. 422-61 to R. 422-63.

The modification shall be published as provided for in Articles 22 et seq. of Decree No. 84-406 of 30 May 1984.

Article R422-40

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Premature dissolution of a company shall require the decision of at least three quarters of the partners.

The provisions of Articles 8 to 16 of Decree No. 78-704 of 3 July 1978 shall apply.

A copy of the instrument appointing the liquidator shall be communicated by the latter to the Director General of the National Institute of Industrial Property and to the President of the Society of Industrial Property Attorneys. The liquidator shall inform them of the closing of the liquidation.

Paragraph 2 Liberal Partnerships

Article R422-41

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of this subsection shall govern partnerships constituted pursuant to Title I of Act No. 90-1258 of 31 December 1990 with the aim of exercising in common the profession of industrial property attorney. Such partnerships shall bear the designation of professional partnerships of industrial property attorneys.

Article R422-42

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Instruments and documents intended for third parties, in particular letters, invoices, announcements and miscellaneous publications originating from a professional partnership of industrial property attorneys shall show the name of the partnership immediately preceded or followed, as appropriate:

- by either the notice "limited liability professional partnership of industrial property attorneys" or the notice "SELARL of Industrial Property Attorneys";
 - or the notice "professional partnership in the form of a stock company of industrial property attorneys" or the notice "SELAFA of Industrial Property Attorneys";
 - or the notice "professional partnership limited by shares of industrial property attorneys" or the notice "SELCA of Industrial Property Attorneys",
- together with the statement of the capital stock, of the address of the registered offices, a notice of its entry in the list of industrial property attorneys and its registration number in the Register of Commerce and Companies.

Article R422-43

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

One and the same natural or legal person exercising the profession of industrial property attorney may not, pursuant to the third paragraph of Article 5 of Act No. 90-1258 of 31 December 1990, hold a participation in more than two professional partnerships of industrial property attorneys.

Article R422-44

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The holding of shares in a professional partnership of industrial property attorneys shall be prohibited for any person who has been removed from the list of industrial property attorneys or the list of patent agents referred to in Article 3 of Decree No. 76-671 of 13 July 1976 as amended, relating to professional qualifications with regard to patents for invention and establishing the organization and disciplinary arrangements for the profession of patent agent.

Article R422-45

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A partner may exercise the profession of industrial property attorney only within a single professional partnership and may not exercise the profession individually or within another company of any form whatsoever.



Article R422-46

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The professional partnerships of industrial property attorneys shall be subject to the provisions on obligations, guarantee and discipline applicable to the profession of industrial property attorney.

However, partnerships may not be subject to disciplinary procedures independently of those initiated against attorneys who are partners within such partnerships exercising that profession.

Article R422-47

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A partner in a professional partnership set up for the exercise of the profession of industrial property attorney may be excluded from that partnership in the event of definitive disciplinary sanction with the effect of temporarily prohibiting him from exercising the profession for a period of more than six months.

Such exclusion shall be decided by a unanimous decision of the other partners.

Article R422-48

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any partner who has been excluded shall have a period of six months as from notification made to him of the decision by the partnership to assign his partnership shares or stock, by means of a registered letter with notice of receipt.

During that period, the excluded partner shall forego the remuneration deriving from exercise of his professional activity and his right to attend and vote in meetings of the partnership. He shall maintain his right to receive the dividends distributed with regard to his partnership shares or stock. The partnership shares or stock of the partner who has been excluded shall be purchased either by an acquirer who has been approved by the partnership or by the partnership which shall then reduce its capital. Failing amicable agreement, the buying back price of the partnership shares shall be determined under the conditions laid down in Article 1843-4 of the Civil Code.

Article R422-49

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A partner prohibited from exercising on a temporary basis shall keep, for the duration of his sanction, his capacity of partner with all the rights and obligations deriving



therefrom, with the exclusion of his right to remuneration paid by the partnership in relation to the exercise of his professional activities.

In the event of a prohibition to exercise the profession imposed on all the partners in a professional company, the professional acts and the management of the company shall be undertaken by one or more industrial property attorneys designated by the National Society of Industrial Property Attorneys.

Paragraph 3 Trading Partnerships

Article R422-50.

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The constitution of a trading partnership of industrial property attorneys referred to in Title II of Act No. 90-1258 of 31 December 1990 shall give rise to the publication of a notice in a journal authorized to publish statutory announcements at the place of its registered offices, if such exists, or at the place of exercise of each of the partners. The notice shall contain the identity of the partners, the designation, the purpose, the address of the registered offices, if such exist, and that of the places of exercise.

Article R422-51

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Membership of a trading partnership, with the designation of the partnership, shall be notified in the professional acts and in the correspondence of each partner.

Section 4: Professional Obligations

Article R422-52

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

An industrial property attorney shall exercise his profession with dignity, honor, independence and probity and shall comply with the laws and regulations governing his society.

Article R422-53

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 2 V Official Journal of 24 September 1997)



An industrial property attorney shall refrain from any canvassing or advertising not authorized by Article R. 423-2.

He shall draw up an indicative schedule of fees, as distinct from the refunding of costs and fees to be paid. The detailed schedule of such charges shall be communicated to any person so requesting.

Article R422-54.

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

An industrial property attorney:

- 1°. Shall refrain within the same case from advising, assisting or representing customers having opposing interests;
- 2°. Shall observe professional secrecy: secrecy shall extend in particular to consultations given to his customer, to professional correspondence and to all documents drawn up in that connection;
- 3°. Shall pursue the case for which he is responsible up to its completion, unless his customer releases him from it;
- 4°. Shall report on the execution of his brief, particularly with respect to the handling of funds; to that end, he shall submit to his customer an account that clearly shows his fees, on the one hand, and the costs and charges, on the other: this account shall show the amounts that have been previously received as advances or payment;
- 5°. Shall return to the customer who has released him or to the latter's new representative all documents of an official nature in his possession and all the elements and information required to execute or complete the task entrusted to him; the documents should be handed out within a period of time that will avoid any preclusion or prescription.

Section 5: Disciplinary Measures

Article R422-56

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

(Decree No. 2002-215 of 18 February 2002 art. 4 I Official Journal of 20 February 2002)

The disciplinary board, referred to in Article L. 422-10, to hear breaches of the obligations of industrial property attorneys, shall comprise seven members:

- 1°. A magistrate of the judiciary, as Chairman, appointed on a proposal by the first President of the Court of Appeal of Paris;



2°. A member of the *Conseil d'Etat* appointed on a proposal by the Vice President of the *Conseil d'Etat*;

3°. The President of the National Society of Industrial Property Attorneys or his alternate designated by him for the duration of his term of office from among the vice presidents of the Society;

4°. Two industrial property attorneys, chosen from a list of eight proposed candidates, not members of its Office, by the National Society of Industrial Property Attorneys;

5°. Two qualified persons.

The members designated in accordance with items 1, 2, 4 and 5 shall have alternates appointed under the same conditions.

The disciplinary board also hears breaches of the obligations of other persons allowed to exercise activities within the scope of industrial property attorney.

Article R422-57

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

The members of the disciplinary board, with the exception of the President of the National Society of Industrial Property Attorneys and his alternate, shall be appointed, as shall their alternates, for a period of three years by joint order of the *Garde des sceaux*, Minister for Justice, and the Minister responsible for industrial property.

Article R422-58

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

Matters may be referred to the disciplinary board by the Keeper of the Seals, Minister for Justice, by the Minister responsible for industrial property, by the Director General of the National Institute of Industrial Property or by means of a complaint.

The referral of the complaint shall be lodged with the chairman of the board by registered letter with notification of receipt at the headquarters of the National Institute of Industrial Property.

Article R422-59

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)



The Secretary of the National Society of Industrial Property Attorneys shall act as recorder of the disciplinary board. If he should be unavailable, and particularly if it would appear that the six-month time limit referred to in Article R. 422-60 may not be complied with, the Office of the Society shall designate one of the officers as alternate.

The secretariat of the Board shall be provided by the National Institute of Industrial Property.

Article R422-60

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

(Decree No. 2002-215 of 18 February 2002 art. 4 II Official Journal of 20 February 2002)

The recorder may, *ex officio* or at the request of the chairman of the board, require the industrial property attorney concerned, the complainant or any other person able to throw light on the discussions, the explanations and the justifications required for the information of the Board.

The report shall set out the alleged acts, the proceedings accomplished and the reasoned conclusions of the recorder with regard to the existence of a disciplinary fault.

It shall be filed at the seat of the board within six months of referral to the latter, failing which the chairman of the board may designate a further recorder from among the members of the Society who are not members of the board.

Article R422-61

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

If the recorder considers that the complaint or the referral is not admissible, is irrelevant or obviously unfounded, he shall propose to the board that it terminate the matter.

The decision to terminate shall be taken and notified in the manner and under the conditions laid down in Article R. 422-64. It may be referred to the *Conseil d'Etat* in a cassation procedure.

Article R422-62

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)



(Decree No. 2002-215 of 18 February 2002 art. 4 III Official Journal of 20 February 2002)

Except where Article R. 422-61 is applied, the person subject to a disciplinary procedure shall be summoned to appear before the disciplinary board by its chairman at least fifteen days before the hearing, by registered letter with notification of receipt.

If the person prosecuted is a legal person, the summons shall be addressed under the same conditions to his legal representative.

The summons shall comprise, under the pain of invalidity, an exact statement of the facts for which the prosecution has been instituted and the reference of the legislative or regulatory provisions on the basis of which the facts are prosecuted and sanctioned. It shall be communicated to the authority that has made the referral to the board or to the author of the complaint, by registered letter with notification of receipt. A time limit of 15 days as from notification shall be imposed both on the complainant and on the industrial property attorney for submitting any written observations.

The person prosecuted, the authority that has made the referral to the board or to the author of the complaint may consult the prosecution file with the secretary to the board, particularly the report referred to in Article R. 422-60. To that end, the person prosecuted may be assisted by the person of their choice.

The file shall also be available to the members of the board.

Article R422-63

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

(Decree No. 2002-215 of 18 February 2002 art. 4 IV Official Journal of 20 February 2002)

Unless one of its members and his alternate are affected by one of the reasons for refusal referred to in Article L. 731-1 of the Code of the Judicial organization, the disciplinary board may only meet and deliberate validly if all its members or their alternates are present.

The board shall hear the recorder who shall read out his report.

The Board may hear any witnesses and have any investigation made where it is deemed useful.

Except where the board pronounces pursuant to Article R. 422-61, the author of the complaint may attend the hearing and may be heard. With the same reservation, the person prosecuted shall speak last, together with the author of the complaint and may be assisted by the person of his choice.

The sittings of a board shall be public. However, the chairman may, *ex officio* or at the request of one of the parties, deny the public access to the room during the whole or part of a sitting in the interests of public order or where respect for personal privacy or for business secrecy so justifies.



Article R422-64

(Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

(Decree No. 2002-215 of 18 February 2002 art. 4 V Official Journal of 20 February 2002)

The consultation of the judges shall take place without the parties. The recorder shall not participate in the consultation, nor shall the secretary to the board.

The disciplinary decision, which shall be reasoned, shall be taken on a majority. Temporary removal for more than one year or final removal may only be pronounced by a decision taken on a majority of at least five members.

The decision shall be notified by the secretary to the party concerned, to the complainant, to the Director General of the Institute, to the Keeper of the Seals, Minister for Justice, and to the Minister responsible for industrial property by registered letter with notification of receipt within a period of 15 days as from its pronouncement.

The decision shall become executable as from its notification to the attorney who is the subject of the decision.

The decision may be referred to the *Conseil d'Etat* in a cassation procedure.

Article R422-65

(inserted by Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

Any company of which a member has been removed for disciplinary reasons shall be removed from the special section referred to in Article L. 422-7 by decision of the Director General of the Institute if the person concerned has not ceased to exercise his activities in that company within three months.

In addition to the notifications referred to in Article R. 422-64, the removal decision shall be notified to the registrar referred to in Article R. 422-6.

Article R422-66

(inserted by Decree No. 97-863 of 17 September 1997 art. 3 Official Journal of 24 September 1997)

Temporary or final removal from the list shall be published in the Official Bulletin of Industrial Property on the initiative of the Director General of the Institute.

Chapter III: Miscellaneous Provisions

Article R423-1



(Decree No. 97-863 of 17 September 1997 art. 4 Official Journal of 24 September 1997)

(Decree No. 2002-215 of 18 February 2002 art. 5 Official Journal of 20 February 2002)

The conditions for entry in the list referred to in Article L. 422-5 shall be assessed as of the date of entry into force of that Article. In the case of legal persons, the condition shall be assessed with regard to the authors of the application. Maintenance of the entry shall be subject to compliance with the conditions on account of which the Director General of the Institute has taken his decision.

The persons entered in the list referred to in Article L. 422-5 shall be obliged, when carrying out their professional activity, to comply with the regulations referred to in Articles L. 422-8 and R. 422-52 to R. 422-54. In the event of failure to respect their obligations, they shall be subject to the provisions of Articles R. 422-56 to R. 422-66 and the sanctions provided for by Article L. 422-10 shall apply to them.

Article R423-2

(inserted by Decree No. 97-863 of 17 September 1997 art. 4 Official Journal of 24 September 1997)

The prohibition on canvassing referred to in Article L. 423-1 shall not apply to offers of services made by postal means and addressed to professionals or undertakings. However, such offers shall be restricted to communication of general information on the firm, its organization, its staff, its services and on industrial property law.

Such information may be supplemented by indications relating to the price of services. The follow-up to such services, of such nature as to entail additional costs, shall be set out where applicable. A distinction shall be made between fees and the costs and official fees.

Advertising by means of making available brochures or pamphlets or by the insertion of announcements in specialized press or in directories shall be authorized under the same conditions.

The publication of books or articles of a legal or technical nature or the distribution of information to customers shall not be deemed to constitute advertising.

An order of the Minister responsible for industrial property, issued after having heard the National Society of Industrial Property Attorneys, may lay down standardized presentation and formulation of the information referred to in this Article. The opinion of the Society shall be deemed to have been obtained if no reply is received within one month of referral.

Sole Section: Specific Regulatory Measures for Certain Industries

Article R511-1



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any creator of an industrial design belonging to one of the industries referred to in Article R. 511-2 or to similar industries requiring to obtain confirmation of the date of the creation of industrial designs may have recourse, to that end, to the means of proof laid down in Articles R. 511-3 to R. 551-6.

Article R511-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Article R. 511-1 shall apply to the industries of engraving, embossing, jewelry, goldsmithing, bronze making and associated industries, embroidery, lace-making, silk-making, ribbon-making, fabrics and textile materials, font-making, bottle-making, furniture-making, ceramics, cut glass and glassware, upholstering, furnishing fabrics, tapestries and carpets, billiard table manufacture and related industries, wallpapers, furs and skins, costume jewelry of all types and the related industries, lithographic printing, leatherwares, corsetry, travelling goods of all kinds, saddlery and all related industries.

Article R511-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The designs or the graphic reproduction of three-dimensional designs shall be effected on a sheet of paper of which one side only is used; the parts that remain unused shall be filled in with hatching up to the actual limit of the design and spaced at a maximum of 20mm from each other; the size of the paper to be used shall be 21 x 29.7 or 42 x 29.7.

On the reproduction shall be mentioned all indications capable of defining the date and conditions of the creation of each design that is shown (date of creation or purchase, name of creator and, if possible, of the first person for whom it was intended).

Article R511-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The designs shall be press copied with their date in a copy book or reproduced by transfer to a special register made up of sheets of manilla paper sufficiently thin to prevent any scratching or overwriting; the registers shall be initialled and stamped, prior to use, by the National Institute of Industrial Property under the circumstances laid down by ministerial order.



The documents thus copied or reproduced shall occupy one side only of a sheet in one of the registers or, if the dimensions so require, the two facing sides of two separate sheets.

Article R511-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Either of these two registers, regularly held in chronological order, without blank nor gap, may, in the event of a dispute, be produced in order to establish the date of creation of which priority is disputed.

Article R511-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In order to supplement the evidence drawn from the keeping of the registers mentioned above, the parties concerned shall be authorized to draw up in two identical copies the designs for which they wish to confirm the priority date of creation and to address those two copies to the National Institute of Industrial Property which, after entering and perforating the date of receipt, shall return one of the copies to the sender and place the other copy in its archives.

A ministerial order shall lay down the conditions for sending, safeguarding and returning designs.

Chapter II: Formalities for Filing

Article R512-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 Official Journal of 20 February 2002)

Filings of industrial designs may be effected personally by the applicant or by a representative having his place of residence, place of business or establishment in a member State of the European Community or a State party to the agreement on the European Economic Area. Receipt of the filing shall be confirmed.

It may be effected by sending to the National Institute of Industrial Property a registered postal consignment with notification of receipt or a message by any means of remote transmission defined by decision of the Director General. In such case, the date of filing shall be that of receipt at the Institute.



Article R512-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 6 Official Journal of 20 February 2002)

Persons not having their place of residence or head office in a State party to the agreement on the European Economic Area shall be required, within a period of time afforded to them by the Institute, to appoint a representative who complies with the conditions set out in Article R. 512-1.

Where there is more than one applicant, a joint representative complying with those same conditions shall be appointed.

Except where he has the capacity of industrial property attorney, the representative shall attach his powers which shall extend, subject to the provisions on Article R. 513-2 and unless otherwise agreed, to all acts and to the receipt of all notifications referred to in Chapters II, III and IV of this Title. Powers shall not require legalization.

Article R512-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The filing shall contain:

1°. A statement of filing drawn up in accordance with the order referred to in Article R. 514-5, setting out, in particular:

a) The identification of the applicant;

b) The number of designs involved and for each of them a statement of its subject matter together with the number and title of any graphic reproductions or photographs relating thereto;

c) Where applicable, a statement that publication of the filing is to be postponed, that a priority right deriving from a preceding filing abroad is claimed or that a warranty certificate has been issued in accordance with the Act of 13 April 1908;

2°. A graphic reproduction or photograph of the designs presented in accordance with the above mentioned order: the reproduction shall be accompanied by a concise description.

The description shall be drawn up exclusively for documentary purposes. Its definitive content shall be finalized, where necessary, by the National Institute of Industrial Property;

3°. Proof of payment of the prescribed fees;

4°. If a representative is appointed, the latter's powers, unless he has the capacity of industrial property attorney.

One filing may not concern more than 100 reproductions of designs.

Article R512-4



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Filing in the simplified form referred to in Article L. 512-2, fifth paragraph, shall contain the documents and statements referred to in Article R. 512-3. However, up to waiving of the postponement referred to in Article R. 512-11, the graphic reproductions or photographs of the designs shall not be subject to the presentation requirements referred to in the second item of Article R. 512-3 and the filing shall be subject to proof of payment of a fee independent of the number of reproductions.

Article R512-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Claim to a priority right deriving from a preceding filing abroad when making a filing in France shall be subject to the obligation to forward to the National Institute of Industrial Property, within three months of the filing in France, an official copy of the prior filing and, where appropriate, proof of the right to claim priority.

If this obligation is not complied with, the priority shall be deemed not to have been claimed.

Article R512-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

On receipt of the filing, the following shall be noted on the statement: the date, the place and the serial number of the filing or the national number referred to in the following Article. A receipt for filing shall be given to the applicant.

Where filing is made at the registry of the commercial court or of the court of first instance acting in its stead, the filing documents and the amount of the fees shall be transmitted without delay to the National Institute of Industrial Property by the registrar.

Article R512-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

On receipt at the Institute, the filing shall be given a national number. Where it has not been possible to note it on the filing receipt, the number shall be notified to the applicant.

No correspondence or filing of subsequent documents shall be admissible if the national filing number is not mentioned or, where appropriate, is not accompanied by proof of payment of the prescribed fee.



Article R512-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any filing that does not contain at least one copy of the statement of filing, even if not in the regular form, containing the particulars referred to in Article R. 512-3 (1(a)) and at least one copy of the graphic reproduction or photograph of the design or designs referred to in Article R. 512-3 (2) and not accompanied by proof of payment of the filing fee shall be declared inadmissible.

Article R512-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the filing fails to comply with the requirements of Article R. 512-3 or, in the case of a simplified filing, with the requirements of Article R. 512-4, or where publication of a filing would be such as to offend morality or public policy, a reasoned notification shall be made to the applicant.

He shall be given a period of time to regularize the filing or to contest the objections of the Institute. Failing regularization or observations enabling the objection to be withdrawn, the filing shall be refused.

The notification may be accompanied by a proposal for regularization. Such proposal shall be deemed accepted if the applicant has not contested it within the period of time afforded to him.

No regularization carried out in accordance with the provisions of this Article shall have the effect of extending the scope of the filing.

Article R512-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

All filings recognized as in conformity shall be published in the Official Bulletin of Industrial Property, unless the applicant has requested at the time of filing the postponement of such publication for three years. Postponement of publication may concern only the filing as a whole. Publication shall be made on completion of a period of three years.

Postponement shall be automatic if the filing is made in the simplified form in accordance with Article R. 512-4.

The applicant may at any time waive the postponement. Except where the filing has been made under the simplified form, waiving of the postponement of publication may only concern the filing as a whole.

Article R512-11



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where the filing has been made under a simplified form, the applicant shall be required, at the latest six months before the expiry of the three-year period referred to in Article R. 512-10, to waive in writing the postponement of the publication and submit to the National Institute of Industrial Property:

1. The graphic reproductions or photographs of the design or designs to be published in accordance with the presentation requirements referred to in item 2 of Article R. 512-3;
2. Proof of payment of the prescribed fees.

Failing that, the full or part lapse of the rights deriving from the filing shall be ascertained by the Director General of the National Institute of Industrial Property.

In the event of the graphic reproductions or photographs failing to conform with the requirements of Article R. 512-3 or where the reproduction supplied on waiving of postponement does not correspond identically with one of the representations attached to the simplified filing, the procedure under Article R. 512-9 shall be applied.

Article R512-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for lifting revocation of rights referred to in Article L. 512-3 shall be submitted to the Director General of the Institute.

Requests shall be declared inadmissible if:

- 1°. They are not preceded by the accomplishment of the omitted formality;
 - 2°. They are submitted more than two months after the impediment has ceased;
 - 3°. They concern a time limit that was due more than six months previous;
 - 4°. They are not accompanied by proof of payment of the prescribed fee.
- The decision shall be reasoned. It shall be notified to the requester and entered *ex officio* in the National Designs Register.

Article R512-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The National Designs Register shall be kept by the National Institute of Industrial Property.

There shall be entered therein for each filing:

- 1°. Identification of the holder and the filing references together with subsequent acts affecting its existence or scope;
- 2°. Acts modifying the ownership of a design or enjoyment of the rights deriving from it; in the event of a claim to ownership, the corresponding transfer;
- 3°. Changes of name, of legal form or of address or corrections of clerical errors in the entries.



No entry shall be made in the Register until the filing has been made public as set out in Article R. 512-10.

Article R512-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The particulars referred to in Article R. 512-13, second paragraph, item 1, shall be entered at the initiative of the National Institute of Industrial Property or, in the case of a final annulment judgment, at the request of the registrar or of one of the parties.

Article R512-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Acts affecting the ownership of the filing of an industrial design or the enjoyment of the rights deriving therefrom, such as transfer, assignment of a right of exploitation, constitution or transfer of a pledge or renunciation thereof, restraint, validation and withdrawal of restraint, shall be entered at the request of one of the parties to the act.

The request shall comprise:

- 1°. A form requesting entry;
- 2°. One of the originals of the private agreement ascertaining the change in ownership or enjoyment or a copy of such act if authentic;
- 3°. A reproduction of the above mentioned act if the requester wishes the original or the copy to be returned to him or an extract if he wishes the entry to be restricted to the latter;
- 4°. Proof of payment of the prescribed fee;
- 5°. Where appropriate, the powers of the representative, unless the latter has the capacity of industrial property attorney.

Article R512-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Notwithstanding Article R. 512-15, second paragraph, item 2, the following may be submitted with the request:

- 1°. In the event of a change mortis causa: any act establishing the transfer, at the request of the heirs or legatees;
- 2°. In the event of transfer by reason of merger, hiving off or absorption, a copy certified by the registrar or the Director General of the Institute of the corresponding acts filed at annex to the Register of Commerce and Companies;
- 3°. Subject to proof of the physical impossibility of submitting the original or a copy: any document proving the change in ownership or enjoyment.



Article R512-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Changes in name and address and corrections to clerical errors shall be entered at the request of the holder of the filing. However, where such changes and corrections concern an act already entered, the request may be submitted by any party to the act.

The request shall comprise:

- 1°. A form to request entry;
- 2°. Evidence of the change that has occurred or of the existence of the clerical error to be corrected;
- 3°. Proof of payment of the prescribed fee;
- 4°. Where appropriate, the powers of the representative, unless the latter has the capacity of industrial property attorney.

Article R512-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of non-compliance of the request for entry, the procedure under Article R. 512-9 shall be applied.

The same procedure shall apply to the evidence referred to in Articles R. 512-16(3) and R. 512-17, second paragraph, item 2.

Article R512-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any entry made in the National Designs Register shall be notified in the Official Bulletin of Industrial Property.

Any person concerned may obtain from the Institute:

- 1°. A certificate of identity containing the particulars relating to the filing, the national number and, where appropriate, any relevant renunciations or extensions;
- 2°. A reproduction of the entries made in the National Designs Register;
- 3°. A certificate attesting that there is no entry in the register.

Chapter III: Term of Protection

Article R513-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



(Decree No. 2002-215 of 18 February 2002 art. 7 Official Journal of 20 February 2002)

The extension of the filing of a design or model provided for in Article L. 513-1 may result from a declaration of the owner drawn up in accordance with the order referred to in Article R. 514-5. It may be determined therein that the extension shall be valid for certain designs or models.

Subject to inadmissibility, the declaration shall:

- 1°. Be submitted within the final six months preceding expiry of each period of protection by the person concerned or his representative, who shall attach powers unless he has the capacity of industrial property attorney. Nevertheless, the first extension can be requested at the moment of filing;
- 2°. Comprise the identification of the owner and that of the filing to be renewed and be issued by the registered owner on the day of declaration at the National Register of Designs and Models;
- 3°. Be accompanied by proof of payment of the prescribed fee.

Article R513-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The holder of a design filing may at any time renounce his filing. Renunciation may be limited to a part of his filing. It shall be made by a written declaration addressed or handed to the Institute.

A declaration of renunciation may concern one filing only. It shall be formulated by the holder or by his representative, who, unless he has the capacity of industrial property attorney, shall present special powers.

It shall state whether exploitation rights or pledges exist. If so, it shall be accompanied by the written consent of the person holding such a right or of the pledgee.

In the event of more than one depositor, renunciation can only be effected if it is requested by all the depositors.

Renunciation shall not prevent the publication referred to in Article R. 512-10 except, in the event of full renunciation, if it has been submitted before the beginning of the technical preparation undertaken for such publication.

Article R513-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The duration of the technical preparation referred to in Article R. 513-2 shall be laid down by decision of the Director General of the Institute.

Section 1: Procedure



Article R514-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The time limits afforded by the National Institute of Industrial Property in accordance with this Title shall be neither less than one month nor more than four months.

Article R514-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where a time limit is expressed in days, that of the act, the event, the decision or the notification that initiates the time limit shall not count.

Where a time limit is expressed in months or in years, it shall expire on the day of the last month or of the last year that bears the same number as the day of the act, the event, the decision or the notification that generates the time limit. Failing a day of the same number, the time limit shall expire on the last day of the month.

Where a time limit is expressed in months and in days, the months shall be counted first and then the days.

All time limits shall expire on the last day at midnight.

A time limit that would normally expire on a Saturday, a Sunday or a holiday or non-working day shall be extended to the first working day thereafter.

Article R514-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

All notifications shall be deemed regular if made:

1°. Either to the owner of the filing last declared to the Institute or, after the publication under Article R. 512-10, to the last owner entered in the National Designs Register;

2°. Or to the representative of the above mentioned owner.

If the owner has his place of residence abroad, the notification shall be deemed regular if made to the last representative he has appointed with respect to the Institute.

Article R514-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The notifications referred to in Chapters II, III and IV of this Title shall be made by registered mail with notification of receipt.



Registered mail may be replaced by the handing of the letter to the addressee, against receipt, at the premises of the Institute.

If the address of the addressee is unknown, the notification shall be made by publication of a notice in the Official Bulletin of Industrial Property.

Article R514-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The conditions for submitting the filing and the content of the file shall be determined by order of the Minister responsible for industrial property, in particular as regards:

- 1°. The declaration of filing and the physical specifications to be met by the graphic reproduction or photograph referred to in Article R. 512-3;
- 2°. The declaration of extension referred to in Article R. 513-1;
- 3°. The request for entry in the National Designs Register referred to in Articles R. 512-15 and R. 512-17;
- 4°. The conditions for simplified filings referred to in Article L. 512-2.

Section 2: Transitional Provisions

Article R514-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Articles R. 512-1 to R. 514-5 shall apply to filings taking effect on 15 September 1992 subject to the following provisions:

- 1°. Filings made prior to 15 September 1992 shall remain subject, in relation to the conditions for the physical presentation, to the previously applicable provisions;
- 2°. Requests for maintenance, requests for publication or extension, requests for restoral or communication submitted prior to 15 September 1992 shall be dealt with in accordance with the provisions previously in force;
- 3°. Filings made for five years and kept secret shall be maintained secret if the owner does not request extension of their effects up to 25 years. The request shall be submitted, prior to expiry of five years, in accordance with Article R. 513-1;
- 4°. Filings made for 25 years and kept secret shall be maintained in secret unless the owner renounces secrecy in accordance with Article R. 512-10 or does not request extension of their effects for a second 25-year period in accordance with Article R. 513-1;
- 5°. Only entries made at the initiative of the Director General of the Institute and relating to acts that have occurred after 15 September 1992 shall be entered in the Register.

Sole Chapter Withholding at Customs



Article R521-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for withholding of goods by the customs administration referred to in Article L. 521-7 shall comprise:

- 1°. The surname and forenames or company name of the requester, his place of residence or of business;
- 2°. Where appropriate, the name and address of his representative and proof of his powers;
- 3°. The capacity of the requester in relation to the rights he invokes;
- 4°. The subject matter and national number of the design concerned, accompanied by a certificate of identity issued by the National Institute of Industrial Property;
- 5°. The description of the allegedly infringing goods whose withholding is requested.

The request referred to in the preceding paragraph may be made prior to entry of the allegedly infringing goods into French territory. In such case, it shall be valid for one year and may be renewed.

The conditions for submitting the request shall be set out by order of the Minister responsible for the budget.

Section 2: Right to Title Sub-Section 1: Employee Inventions

Article R611-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

An employee who is the author of an invention shall immediately declare the fact to his employer.

In the event of more than one inventor, a joint declaration may be made by all the inventors or by some of them only.

Article R611-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The declaration shall contain such information, in the possession of the employee, that is adequate to enable the employer to assess the classification of the invention in one of the categories referred to in paragraphs 1. and 2. of Article L. 611-7.

Such information shall concern:

- 1°. The subject matter of the invention together with the envisaged applications;



- 2°. The circumstances in which it was made, for example: instructions or directives received, experience or work of the enterprise used, any collaboration received;
- 3°. The classification of the invention in the view of the employee.

Article R611-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where classification implies the existence for the employer of a right of attribution, the declaration shall be accompanied by a description of the invention.

Such description shall set out:

- 1°. The problem that faced the employee, taking into possible account the prior state of the art;
- 2°. The solution he provided;
- 3°. At least one example of an embodiment, possibly accompanied by drawings.

Article R611-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If, contrary to the classification of the invention on the basis of the employee's declaration, the employer's right of attribution is subsequently recognized, the employee, where appropriate, shall immediately supplement his declaration with the information referred to in Article R. 611-3.

Article R611-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the employee's declaration does not comply with the provisions of Article R. 611-2 (1° and 2°) or, where appropriate, of Article R. 611-3, the employer shall communicate to the person concerned the exact points on which the declaration should be supplemented.

Such communication shall be made within two months as from the date of receipt of the declaration. Failing that, the declaration shall be deemed in conformity.

Article R611-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Within a period of two months, the employer shall give his consent to the classification of the invention on the basis of the employee's declaration or, failing an indication of the classification, shall inform the employee, by reasoned communication, of the classification he has chosen.



The two-month period shall begin on the date of receipt by the employer of the employee's declaration containing the information referred to in Article R. 611-2 or, in the event of a justified request for additional information recognized as such, from the date on which the declaration has been supplemented.

An employer who does not act within the prescribed time limit shall be deemed to have accepted the classification based on the employee's declaration.

Article R611-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The time limit afforded the employer to claim the right of attribution shall be four months, unless otherwise agreed by the parties which may not be subsequent to the declaration of the invention.

The time limit shall begin on the date of receipt by the employer of the declaration of the invention containing the particulars referred to in Articles R. 611-2 (1 and 2) and R. 611-3 or, in the event of a request for supplementary information recognized to be justified, from the date on which the declaration was supplemented.

The claim to the right of attribution shall be made by sending to the employee a communication setting out the nature and scope of the rights which the employer wishes to claim.

Article R611-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The time limits referred to in Articles R. 611-5 to R. 611-7 shall be suspended in the event of institution of legal action with regard to the regularity of the declaration or the justification for the classification of the invention invoked by the employee or by referral, for the same purposes, to the Joint Conciliation Board referred to in Article L. 615-21.

The time limit shall begin on the day on which a final decision has been taken.

Article R611-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any declaration or communication made by the employee or by the employer shall be made by registered mail with notification of receipt or by any other means providing evidence that it has been received by the other party.

The declaration referred to in Article R. 611-1 may result from transmission by the National Institute of Industrial Property to the employer, under the conditions laid down by decree of the Minister responsible for industrial property, of the second copy of a letter addressed by the employee to the Institute for safekeeping.



This procedure shall be optional for the inventions referred to in the first paragraph of Article L. 611-7.

Article R611-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The employee and the employer shall refrain from any disclosure of the invention for as long as lack of agreement subsists as to its classification or for as long as no decision has been taken on it.

If one of the parties, in order to maintain his rights, files an application for a patent, the party shall notify without delay a copy of the filing documents to the other party. It shall exhaust the possibilities provided by the applicable legislation and regulations in order to defer publication of the application.

Sub-Section 2: Inventions by Officials and Public Servants

Article R611-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Officials and public servants of the State, of local authorities, of public establishments and of any public law legal person shall be subject to the provisions of Article L. 611-7 in accordance with the conditions laid down in this Subsection, unless more favorable contractual provisions govern the industrial property rights in inventions they make. These provisions shall not constitute an obstacle to the maintenance or to the application, with respect to such officials and public servants, of more favorable regulatory measures.

Article R611-12

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 96-857 of 2 October 1996 art. 1, annexe Official Journal du 3 October 1996)

1 Inventions made by an official or public servant in the execution either of tasks comprising an inventive mission corresponding to his attributions, or of studies or research explicitly entrusted to him shall belong to the public person on behalf of whom he carries out those tasks, studies or research. However, if the public person decides not to develop the invention, the official or public servant who has made the invention may enjoy the economic rights deriving from the invention in accordance with the conditions laid down in an agreement concluded with the public person.

2 All other inventions shall belong to the official or public servant.



However, the public employer shall have the right, under the conditions and time limits laid down in this Subsection, to have attributed to him all or a part of the rights deriving from the patent protecting the invention where the invention has been made by an official or a public servant:

Either in the course of carrying out his duties;
Or in the field of activity of the public body concerned;
Or through knowledge or use of techniques, specific means of such body or of data obtained by that body.

Article R611-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where the same public servant carries out his activities on behalf of more than one public person, those public persons shall act concertedly in accordance with the conditions to be determined by order or by an agreement brought to the knowledge of the servants concerned for the exercise of rights and the execution of obligations laid down by this Subsection.

Article R611-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

An official or public servant who makes an invention shall immediately declare the invention to the authority empowered by the public person to which it belongs.

The provisions of Articles R. 611-1 to R. 611-10 relating to the obligations of employee and employer shall apply to officials and public servants and to the public persons concerned.

Article R611-14-1.

(Decree No. 96-857 of 2 October 1996 art. 2, annexe Official Journal du 3 October 1996)

(Decree No. 97-843 of 10 September 1997 art. 1 Official Journal of 17 September 1997)

(Decree No. 2001-140 of 13 February 2001 art. 1 and art. 2 Official Journal of 15 February 2001)

- For officials or public servants of the State and of its public establishments governed by the provisions applicable to the bodies and employments shown in the list annexed to this Chapter and who are the authors of an invention referred to in item 1 of Article R. 611-12, the additional remuneration referred to in Article L. 611-



7 shall be constituted by a bonus share in the proceeds derived from the invention by the public person that is the beneficiary of the invention.

II. The additional remuneration due as a profit-sharing bonus shall be paid annually and advances may be made throughout the year.

In each case, it is calculated on the basis of the pre-tax revenue from royalties received each year for the invention by the public servant after deduction of all direct costs borne by the former and including the coefficient representing the contribution of the employee concerned to the invention.

The additional remuneration paid to each public servant who is the author of an invention shall be 50% of the basis specified above, the ceiling being the gross annual salary with pension deductions corresponding to the second group grade outside level D and, beyond this amount, 25% of that basis.

III. When several employees are the authors of the same invention, the importance of the respective contribution of each of them to the invention, represented by a coefficient, shall be definitively determined before the first annual payment or, where applicable, before the payment of advances, in accordance with the arrangements decreed by the Minister having authority over the service or by the principal authorising officer of the public service. When a sole employee is the author of the invention, the coefficient representing their contribution is 1.

If the invention is a result of collaboration between servants belonging to several different public persons, the conditions of distribution and the payment of the profit sharing bonus shall be decided jointly by the public persons concerned.

IV. Where the invention has been made by a servant in the framework of his main activity, the remuneration due as a bonus shall be paid to the person concerned in addition to the remuneration for his activity without limitation other than that set out in this decree.

Where applicable, it shall continue to be paid to the servant during the period of working of the invention despite the fact that he leaves his functions for any reason whatsoever or he claims his retirement benefits.

V. In the event of death of the servant, the profit sharing bonus shall be paid up to the end of the year during which he dies.

Annex: : Civil Servants and public servants who are authors of an invention.
National Education, Higher Education and Research.

Bodies of Officials:

- researchers, engineers, assistant engineers and research technicians governed by Decree No. 83-1260 of 30 December 1983 as amended.
- researcher-professors governed by Decree No. 84-431 of 6 June 1984 as amended and researcher-professors belonging to specific bodies of which the list is given at annex to this Decree.
- engineers, assistant engineers and research and training technicians governed by Decree No. 85-1534 of 31 December 1985 as amended.
- Chief engineers in nuclear physics, engineers in nuclear physics, chief technicians in nuclear physics, technicians in nuclear physics, workshop technicians



- in nuclear physics, research technicians in nuclear physics, nuclear physics preparers and nuclear physics prototypists, governed by Decree No. 85-1462 of 30 December 1985 as amended.
- Research representatives of the National Scientific Research Centre, governed by Decree No. 95-1461 of 30 December 1985;
Non-confirmed Civil Servants:
 - researchers governed by Decree No. 80-31 of 17 January 1980 as amended.
 - engineers and specialists governed by Decree No. 59-1405 of 9 December 1959 as amended.
 - scientific and contractual staff governed by Decree No. 80-479 of 27 June 1980.
 - professors and associated lecturers pursuant to Article 54, paragraph 2, of Act No. 84-52 of 26 January 1984 and Act No. 85-1223 of 22 November 1985.
 - research allocatees governed by Decree No. 85-402 of 3 April 1985 as amended by Decree No. 92-339 of 30 March 1992.
 - training college instructors and allocatee-instructors governed by Decree No. 89-794 of 30 October 1989 as amended.
 - pharmacy instructors governed by Decree No. 92-1229 of 19 November 1992 as amended.
 - temporary teaching and research staff governed by Decree No. 88-654 of 7 May 1988 as amended.
 - Researchers associated to the National Scientific Research Centre governed by Decree No. 69-894 of 26 September 1969 as amended.
 - contractual agents outside classification, exceptional and first grade contractual agents, governed by the internal regulations of 30 March 1988 containing the provisions applicable to the contractual employees of the National Centre for Agricultural Machinery, Rural Engineering and Water and Forests.
 - Engineers and specialists at the National Centre for Health and Medical Research, governed by Decree No. 64-420 of 12 May 1964 as amended.
 - Expert engineers of the National Institute for Computers and Automation governed by Decree No. 86-83 of 17 January 1986 as amended.
 - Employees recruited by public institutions of a scientific and technological nature in application of the provisions of Article 23 of Act No. 82-610 of 15 July 1982, as amended, on policy and research on technological programming in France.
Higher education, research and social affairs:
 - teaching and hospital staff of teaching hospitals governed by Decree No. 84-135 of 24 February 1984 as amended.
 - teaching and hospital staff of dental care, teaching and research centres of teaching hospitals governed by Decree No. 90-92 of 24 January 1990 as amended.
 - first and second grade professors in dental and odontological surgery of the dental consultation and treatment services governed by Decree No. 65-803 of 22 September 1965 as amended.
- Ministry of Agriculture, Fishery and Food.



Body of Officials:

- rural, water and forestry engineers governed by Decree No. 65-426 of 4 June 1965 as amended.
- agronomical engineers governed by Decree No. 65-427 of 4 June 1965 as amended.
- water and forestry engineers governed by Decree No. 70-128 of 14 February 1970 as amended.
- rural engineers governed by Decree No. 65-688 of 10 August 1965 as amended.
- agricultural engineers governed by Decree No. 65-690 of 10 August 1965 as amended.
- veterinary inspectors governed by Decree No. 62-1439 of 26 November 1962 as amended.
- scientific staff of the National Veterinary and Foodstuffs Study Center governed by Decree No. 64-642 of 29 June 1964 as amended.
- researcher-professors of the higher public education establishments responsible to the Minister responsible for agriculture governed by Decree No. 92-171 of 21 February 1992.
- engineers, assistant engineers and technicians governed by Decree No. 95-370 of 6 April 1995.
- technicians of the services of the Minister responsible for agriculture governed by Decree No. 96-501 of 7 June 1996.

Non-confirmed Civil Servants:

- associate or invited staff in higher education and research establishments responsible to the Minister responsible for agriculture governed by Decree No. 95-621 of 6 May 1995.
- contractual teaching and research assistants of the public higher education establishments responsible to the Minister responsible for agriculture governed by Decree No. 91-374 of 16 April 1991.

Industry:

Body of officials:

- Body of mining engineers governed by Decree No. 88-507 of 29 April 1988, as amended by Decree No. 94-449 of 31 May 1994.
- Industry and mining engineers governed by Decree No. 88-507 of 29 April 1988 as amended.
- Professors, lecturers and assistants of the higher public education establishments of mining and higher public education establishments of industrial techniques governed by Decree No. 69-444 of 14 May 1969 as amended.
- Laboratory technicians assigned to higher public education establishments of mining and higher public education establishments of industrial techniques and mining and governed by Decree No. 96-273 of 26 March 1996 as amended.



- Interministerial body of telecommunications engineers governed by Decree No. 67-715 of 16 August 1967.
- Civil Servants delegated to employment in the group of telecommunications public higher education establishments pursuant to Article 36 (1) of Decree No. 96-1177 of 27 December 1996.

Non-confirmed Civil Servants

- Research personnel in the Higher Public Education Establishments of Mining of Paris and Saint-Etienne governed by Decree No. 71-999 of 7 December 1971.
- Teaching personnel, researchers and affiliated engineers governed by Decree No. 70-663 of 10 July 1970 as amended.
- Contractual employee "exceptional category" representatives, "normal category" contractual employee representatives, non-confirmed contractual employees and 1st category contractual employees governed by Decree No. 75-62 of 28 January 1975 as amended.
 - Public law contractual employees of the group of telecommunications establishments recruited pursuant to Article 36 (2) of Decree No. 96-1177 of 27 December 1996 and governed by Decree No. 86-83 of 17 January 1986 as amended.

Ministry of Equipment, Transport and Housing.

Body of Officials:

- roadworks engineers governed by Decree No. 59-358 of 20 February 1959 as amended;
- research workers and research directors governed by Decree No. 94-943 of 28 October 1994;
- state public works engineers governed by Decree No. 71-345 of 5 May 1971 as amended;
- surveyors governed by Decree No. 65-793 of 16 September 1965 as amended by Decree No. 90-160 of 16 February 1990;
- state surveyors and cartographers governed by Decree No. 73-264 of 6 March 1973 as amended;
- civil aviation engineers governed by Decree No. 71-234 of 30 March 1971 as amended;
- civil aviation study and exploitation engineers governed by Decree No. 71-907 of 8 November 1971 as amended;
- air traffic controllers governed by Decree No. 90-998 of 8 November 1990 as amended;
- air safety systems electronics engineers governed by Decree No. 91-56 of 16 January 1991 as amended by Decree No. 94-278 of 11 April 1994;
- meteorological engineers governed by Decree No. 63-1376 of 24 December 1963 as amended;
- meteorological work engineers governed by Decree No. 65-184 of 5 March 1965 as amended.

Non-confirmed Civil Servants:



- non-confirmed staff of category A level governed by the following provisions:
 - decision of 18 March 1992 of the Minister of State, Minister for the Public Service and Modernization of the Administration, Minister for Equipment, Housing, Transport and Space and the Deputy Minister for the Budget;
 - regulation of 14 May 1973 governing non-established staff of the Central Laboratory of Public Works and the technical study centers for equipment;
 - internal Regulations of 30 October 1969 as amended relating to non-established staff employed by the technical study services for roads and motorways;
 - Order of 10 July 1968 relating to the conditions for recruiting and paying technical and administrative contractual staff of the Ministry of Equipment and Housing carrying out high-level studies in the economic and international affairs service and in the roads and motorways technical studies service, as amended by Order of 27 March 1973 on the same subject;
 - Decree No. 46-1507 of 18 June 1946 laying down the status of auxiliary staff recruited by contract by the Ministry for Public Works and Transport for the bridges and road service, as amended by Decrees No. 68-313 of 1 April 1968 and No. 75-1355 of 18 December 1975 on the same subject;
 - Decree No. 48-1018 of 16 June 1948 as amended laying down the status of contractual servants of the Ministry of Public Works of Transport, Transport and Tourism;
 - internal regulations of 4 June 1970 relating to non-confirmed staff employed by the Regional Directorate for Equipment of the Ile de France.

Sub-Section 3: Designation of Inventor and Claim to Ownership

Article R611-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The National Institute of Industrial Property shall not verify the correctness of designation of inventor referred to in Article R. 612-10.

Article R611-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The designated inventor shall be mentioned as such in publications of the patent application and of the patent specification. If that cannot be done, he shall be mentioned in the copies of the publications of the patent application or the patent specification not yet distributed. The mention shall be made at the request of the applicant or holder of the patent.



The provisions of the preceding paragraph shall apply where a third party submits to the National Institute of Industrial Property a final decision recognizing his right to be designated. In the case referred to in the second sentence of that paragraph, the third party may also ask to be mentioned in the copies of publications of the patent application or the patent specification not yet distributed.

The provisions of the first paragraph shall not apply where the inventor designated by the applicant or the patent owner renounces his designation in a written communication to the National Institute of Industrial Property.

Article R611-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The designation of inventor may be corrected only by a request accompanied by the consent of the person wrongly designated and, if the request is not submitted by the applicant or the owner of the patent, the consent of either one of those persons. The provisions of Article R. 612-10 shall apply.

If a mistaken designation of inventor has been entered in the National Patent Register or published in the Official Bulletin of Industrial Property, the entry or publication shall be corrected. The mention of the mistaken designation of inventor shall be corrected in the copies of the publications of the patent application or the patent specification not yet distributed.

The provisions of the preceding paragraph shall apply in the event of the designation of inventor being annulled by a court.

Article R611-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Proceedings to claim ownership of a patent application or a patent shall be entered in the National Patent Register at the request of the person who has instituted the proceedings.

If a court decision is given in favor of the person who has instituted the proceedings, the copies of the patent application or of the patent in the possession of the National Institute of Industrial Property for the purposes of public inspection or for sale shall have a note affixed thereon showing the change in ownership of the patent.

Article R611-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The patent granting procedure shall be suspended at the written request of any person providing evidence that he has instituted proceedings before the first instance court to claim ownership of the patent application.

Suspension of the procedure shall take effect on the day on which evidence is produced and shall apply in particular to the time limit referred to in the first paragraph of Article L. 612-15; however, it shall not prevent application of Article R. 612-39.

The patent granting procedure shall be resumed once the court decision has become final; it may also be resumed at any time with the written consent of the person who has instituted the proceedings to claim ownership of the patent application; such consent shall be irrevocable.

The suspension and resumption of the procedure shall be entered in the National Patent Register.

Article R611-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

As from the date on which a person provides evidence that he has instituted proceedings, the owner of the application or the patent may not withdraw his application or renounce his patent in whole or for one or more of the claims contained therein except with the written consent of the person who has instituted the proceedings to claim ownership.

Section 1: Filing of Applications

Article R612-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A patent application shall be filed either with the National Institute of Industrial Property or with a prefecture other than that of Paris.

The filing may be effected by sending to the National Institute of Industrial Property by registered mail with notification of receipt or by a message using any type of remote transmission defined by decision of its Director General. In such case, the date on which the documents are submitted shall be the date of receipt at the National Institute of Industrial Property.

Article R612-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 5 Official Journal of 24 September 1997)



(Decree No. 2002-215 of 18 February 2002 art. 8 Official Journal of 20 February 2002)

The filing may be made by the applicant in person or by a representative having his place of residence, his place of business or an establishment in a member State of the European Community or in a State party to the agreement on the European Economic Area. Subject to the exceptions referred to in Articles L. 422-4 and L. 422-5, the representative appointed for the filing and accomplishment of any subsequent act relating to the patent granting procedure, with the exception of the simple payment of fees, shall be required to have the capacity of industrial property attorney.

Natural or legal persons not having their place of residence or their place of business in a member State of the European Community or in a State party to the agreement on European economic space shall be required to appoint a representative who meets the conditions set out in the preceding paragraph within two months as from the date of receipt of the notification addressed to them for that purpose. In the event of more than one applicant, a joint representative meeting the same conditions shall be appointed.

Except where he has the capacity of industrial property attorney, the representative shall be required to attach powers that extend, subject to the provisions of Articles R. 612-38 and R. 613-45 and, unless agreed to the contrary, to all acts and to the receipt of all modifications referred to in Articles R. 611-15 to R. 611-20, R. 612-1 to R. 613-3, R. 613-45 to R. 613-65, R. 616-1 to R. 616-3 and R. 618-1 to R. 618-4. The powers shall not require legalization.

Article R612-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The patent application shall comprise a request for grant of a patent of which the form shall be laid down by decision of the Director General of the National Institute of Industrial Property and to which shall be attached:

- 1°. A description of the invention, accompanied where appropriate by drawings;
- 2°. One or more claims;
- 3°. An abstract of the technical content of the invention;
- 4°. Where appropriate, a copy of any earlier filings of which elements are reproduced as set out in Article L. 612-3; the elements that are reproduced shall be highlighted therein.

Article R612-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The patent application shall not contain:

- 1°. Elements or drawings of which the publication or implementation would be contrary to public policy or morality;



- 2°. Statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person. Mere comparisons with the prior art shall not be considered disparaging in themselves;
3. Elements obviously irrelevant to the description of the invention.

Article R612-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The patent application shall be followed, within one month of the filing of the documents, by payment:

- 1°. Of the filing fee;
- 2°. Of the search report fee, unless the drafting of the report has been deferred.

Article R612-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A receipt stating the date of submission of the documents shall be issued to the applicant either by the National Institute of Industrial Property or by the prefecture.

When they are filed with a prefecture, the documents shall be immediately transmitted to the National Institute of Industrial Property in Paris, accompanied by a duplicate of the receipt.

Article R612-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Within 15 days of the filing or arrival of the documents at the National Institute of Industrial Property in Paris, that Institute shall allocate to the patent application a national registration number and shall notify the number without delay to the applicant. No subsequent correspondence or filing of documents shall be admissible without reference to that number.

Article R612-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Enjoyment of the filing date of the patent application shall be acquired on the date of filing of at least one copy of the documents listed in Article L. 612-2, drawn up in French, save for the exception under Article R. 612-21. Enjoyment of the filing date shall be acquired even if those documents are irregular in form.



If one of the elements referred to in the preceding paragraph is missing, the applicant shall be invited to supplement the patent application within one month.

If the applicant complies with the invitation, the filing date shall be that on which the application was supplemented; that date shall be notified to the applicant. If such is not the case, the application shall be declared inadmissible; the elements filed shall be returned to the applicant and any fees that have been paid shall be refunded to him.

Article R612-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the drawings are filed after the filing date referred to in the preceding Article, the applicant shall be informed that the drawings and the references made to the drawings in the patent application shall be deleted unless he submits, within one month, a request for the obtaining of a patent having as its date the day on which the drawings are filed.

If the drawings have not been submitted, the applicant shall be invited to remedy the omission within one month; he shall be informed that the patent application shall take the date of the day on which the drawings are filed and failing that the references made to the drawings shall be deleted.

Where appropriate, the new filing date shall be notified to the applicant.

Article R612-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for grant shall be signed by the applicant or his representative. It shall contain:

- 1°. The nature of the industrial property title sought;
- 2°. The title of the invention, which shall clearly and concisely state the technical designation of the invention and shall exclude all fancy names;
- 3°. The designation of the inventor; however, if the applicant is not the inventor or not the sole inventor, the designation shall be made in a separate document containing the surname, forenames and place of residence of the inventor together with the signature of the applicant or of his representative;
- 4°. The surname and forenames of the applicant, his nationality, his place of residence or of business;
- 5°. The name and address of the representative, if a representative has been appointed.

Article R612-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The request for grant shall be supplemented, where appropriate, by particulars relating to:

- 1°. The deferred drafting of the search report;
- 2°. Facilities requested for payment of the fee for drafting that report;
- 3°. A reduction in the rate of fees afforded the applicant or requested by him;
- 4°. Earlier filings of which elements may have been reproduced;
- 5°. Claimed priorities;
- 6°. Showing of the invention in an official or officially-recognized exhibition.

In the event of non-compliance with the provisions of Article R. 612-10(3), the applicant shall be invited to regularize his application within a period of 16 months as from the filing date or from the earliest date enjoyed by the application or, if priority has been claimed, from the priority date.

Any declaration of priority and any request to enjoy the filing date of an earlier application shall be subject to payment of a fee.

Article R612-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The description shall contain:

- 1°. A statement of the technical field to which the invention relates;
- 2°. A statement of the background art known to the applicant and which can be regarded as useful for understanding the invention and drawing up the search report; the documents reflecting the prior art shall be cited wherever possible;
- 3°. Disclosure of the invention, as claimed, in such terms that the technical problem and the solution proposed can be understood; where appropriate, any advantageous effects of the invention with reference to the prior art shall be stated;
- 4°. A brief description of the drawings, if any;
- 5°. A detailed description of at least one way of carrying out the invention; the description should normally be accompanied by examples and references to the drawings, if any;
- 6°. A statement of the way in which the invention is capable of exploitation in industry if such exploitation is not obvious from the description or the nature of the invention.

Article R612-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The description shall be presented in the manner and order referred to in Article R. 612-12, unless the nature of the invention means that a different manner or a different order would afford a better understanding and a more economic presentation.

In addition, the following may be annexed at the end of the description:



1°. Short extracts from computer programs presented in the form of lists written in current programming languages, where necessary for the understanding of the invention;

2°. Lists of nucleotide and/or amino acid sequences;

3°. Chemical or mathematical formulae.

Schematic representations of stages in a process, diagrams and short extracts from computer programs submitted in the form of organigrams required for the understanding of the invention shall be considered to be drawings.

Article R612-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the case referred to in the second paragraph of Article L. 612-5, the culture shall be deposited at the latest on the filing date of the patent application and the description shall detail:

1°. The information available to the applicant regarding the characteristics of the microorganism;

2°. The authorized body with which the culture has been deposited, together with the deposit number.

The information referred to in item 2 in the preceding paragraph may be supplied within a period of 16 months as from the filing date or of the earliest date enjoyed by the patent application or, if priority is claimed, from the priority date, or on the occasion of the request referred to in Article L. 612-21 if such request is submitted prior to expiry of that time limit. The communication of this information shall imply on the part of the applicant his irrevocable and unreserved consent to the deposited culture being made available to the public in accordance with Articles R. 612-42 and R. 612-43.

Article R612-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the culture ceases to be available either because it is no longer viable or because the authorized body is no longer able to supply samples, such interruption shall not be taken into account provided that:

1°. A new deposit of the microorganism is made within three months as from the date on which the interruption was notified to the applicant or to the holder of the patent either by the authorized body or by the National Institute of Industrial Property;

2°. A copy of the deposit receipt issued by the authorized body, accompanied by the number of the patent application or patent, is communicated to the National Institute of Industrial Property within four months of the new deposit date.

Where interruption results from non-viability of the culture, the new deposit shall be made with the authorized body that had received the initial deposit; in the other cases, it may be made with any authorized body.



The new deposit shall be accompanied by a written declaration by which the depositor certifies that the microorganism is the same as that of the initial deposit.
The bodies authorized to receive deposits of microorganisms shall be designated by order of the Minister responsible for industrial property.

Article R612-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The claims shall define the matter for which protection is sought in terms of the technical features of the invention. The claim may not, except where absolutely necessary, rely in respect of the technical features of the invention on simple references to the description or drawings.

Article R612-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

All claims shall comprise:

1°. A preamble giving the designation of the subject matter of the invention and those technical features which are necessary for the definition of the claimed elements but which, in culmination, are part of the prior art;

2°. A characterizing portion, preceded by an expression of the type "characterized by" stating the technical features which, in combination with the features stated in item 1, it is designed to protect.

However, a different manner may be adopted if justified by the nature of the invention.

Article R612-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Subject to the first paragraph of Article L. 612-4, a patent application may contain two or more independent claims in the same category (product, process, apparatus or use) where it is not appropriate, having regard to the subject matter of the application, to cover this subject matter by a single claim.

Any claim stating the essential features of an invention may be followed by one or more claims concerning particular embodiments of that invention.

Article R612-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Pursuant to Article L. 612-4, one and the same patent application may include, in particular, either:

1. An independent claim for a product, an independent claim for a process designed specifically for the manufacture of that product, and an independent claim for a use of such product;
2. An independent claim for a process, and an independent claim for a device or means specifically designed for the implementation of the process;
3. An independent claim for a product, an independent claim for a process designed specifically for the manufacture of that product and an independent claim for a device or means specially designed for the implementation of the process.

Article R612-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The abstract shall be drawn up exclusively for use as technical information. It may not be taken into account for any other purpose, in particular not for the purpose of interpreting the scope of the protection sought or for the purpose of applying the third paragraph of Article L. 611-11.

The final content of the abstract shall be drafted, where necessary, by the National Institute of Industrial Property. It shall be published in the Official Bulletin of Industrial Property at the same time as the notice referred to in Article R. 612-39 or, subsequent to that notice, immediately after it has been finalized.

Article R612-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The descriptions and claims contained in applications as filed may be drafted in a foreign language:

Either by foreign natural or legal persons, provided that the country of which those persons are nationals affords equivalent treatment to French nationals;

Or by natural or legal persons to whom has been assigned an application filed abroad or a priority right in such application, provided that the country in which the initial application was filed affords equivalent treatment to French nationals.

If use is made of this faculty, a translation of the documents shall be furnished by the applicant within three months as from the filing date of the patent application.

The list of countries considered to afford equivalent treatment and the national language or one of the national languages in which nationals of such countries may file shall be determined by the Minister for Foreign Affairs and the Minister responsible for industrial property.

Article R612-22



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Proof of the exhibitor's right defined in Article L. 611-13, first paragraph, second indent, (b), shall be furnished within four months as from the filing date of the patent application in the form of an attestation issued during the exhibition by the authority responsible for ensuring protection of industrial property at that exhibition and confirming that the invention has in fact been displayed at that exhibition.

The attestation shall state the opening date of the exhibition and, where appropriate, that of first disclosure of the invention if the two dates should not be the same. It shall be accompanied by documents that enable the invention to be identified and bearing authentication by the above mentioned authority.

Article R612-23

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The list of non-Member States of the Paris Union considered to afford, on the basis of a French patent application or of an international application or of a European patent designating France, a right of priority equivalent to the right of priority established by the Paris Convention for the Protection of Industrial Property shall be determined by the Minister for Foreign Affairs and the Minister responsible for industrial property.

Article R612-24

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The declaration of priority referred to in paragraph 1 of Article L. 612-7 shall bear the date of the previous application, the State in which or for which it has been filed and the number that has been allocated to it.

The date and State of the earlier filing shall be stated on filing of the patent application, and the filing number prior to expiry of the sixteenth month following the priority date.

The copy of the previous application referred to in paragraph 1 of Article L. 612-7 shall be produced prior to expiry of the sixteenth month following the priority date, accompanied, where appropriate, by the authorization to claim priority given in writing by the owner of the previous application.

It shall be certified by the authority that had received the previous application and shall be accompanied by an attestation from such authority stating the filing date.

In the event of failure to comply with the provisions of the preceding paragraphs, the claim to a priority right shall be declared inadmissible.

If the date of the previous filing that is stated is earlier by more than one year than the filing date of the patent application, the applicant shall be notified that no priority right



exists unless he can give within one month a corrected date that falls within the priority period.

The particulars contained in the declaration of priority shall be mentioned in the published patent application and entered on the patent specification.

Article R612-25

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A request to enjoy the filing date of one or more previous applications shall not be admissible if:

- 1°. It is not made at the time of filing the patent application;
- 2°. The filing date of the previous application or applications of which the benefit is requested is earlier by more than 12 months;
- 3°. The filing of the application or applications for which benefit of the filing date has been requested has been made in a manner that does not permit its publication.

Section 2: Processing of Applications Sub-Section 1: Applications Affecting National Defense

Article R612-26

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The delegates of the Minister responsible for national defense, specially empowered to such end and whose names and capacities have been brought to the knowledge of the Minister responsible for industrial property by the Minister responsible for national defense shall take cognizance at the premises of the National Institute of Industrial Property of the patent applications that have been filed.

These shall be presented to them within 15 days as from their date of receipt at the National Institute of Industrial Property.

Article R612-27

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for authorization to disclose and freely exploit the invention that is the subject matter of a patent application prior to the expiry of the five-month period referred to in Article L. 612-9 shall be submitted to the National Institute of Industrial Property; it may be submitted together with the filing of the patent application. The authorization shall be notified to the applicant by the Minister responsible for industrial property.

In the absence of such authorization and at any time, a request for special authorization to carry out specific acts of exploitation may be addressed directly by the



patent applicant to the Minister responsible for national defense. If he gives the requested authorization, the latter shall set out any conditions to which such acts of exploitation are subject.

If the special authorization concerns the assignment of the patent application for the granting of a license to work, the Minister responsible for national defense shall communicate a copy of his decision to the Minister responsible for industrial property.

Article R612-28

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The requisition addressed to the Minister responsible for industrial property by the Minister responsible for national defense for the purpose of extending the prohibitions on disclosure and free exploitation of an invention that is the subject matter of a patent application shall reach the National Institute of Industrial Property at the latest 15 days before expiry of the five-month period referred to in Article R. 612-27.

Any requisition for the purpose of renewing an extension shall arrive under the same conditions at the latest 15 days before the expiry of the current one-year period.

The extension of the prohibitions on disclosure and free exploitation shall be pronounced by order of the Minister responsible for industrial property and be notified to the applicant prior to termination of the current period of prohibition.

The order may contain special provisions authorizing, subject to certain conditions, the filing abroad of applications for protection of the invention. A request to that end shall have been addressed by the owner of the patent application to the Minister responsible for national defense, who shall communicate his decision to the Minister responsible for industrial property.

Special authorizations to carry out specific acts of exploitation may be granted under the conditions set out in the second and third paragraphs of Article R. 612-27.

The Minister responsible for national defense may inform at any time the Minister responsible for industrial property of the lifting of prohibitions extended in accordance with Article L. 612-10. Such measure shall be the subject of an order by the Minister responsible for industrial property notified to the holder of the patent application.

Article R612-29

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for compensation to repair the prejudice suffered by the extension of the prohibitions on disclosure and free working shall be addressed by the owner of the patent application to the Minister responsible for national defense by registered mail with notification of receipt. The request shall detail, giving figures, the various causes of prejudice invoked.



The first instance court may only be called upon to determine the amount of the compensation on expiry of a period of four months as from the date of receipt of the request, except where an urgent decision has been taken during that period of time.

Article R612-30

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The court applied to under Article L. 612-10 shall pronounce both on the merits and on interlocutory measures by decisions that contain no analysis of the invention such as to entail disclosure.

Only the public prosecutor, the parties or their representatives may receive copies of the decisions taken.

If an expert opinion is ordered, it may only be carried out by persons authorized thereto by the Minister for Defense.

Article R612-31

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the prohibitions on disclosure and free working terminate more than one year after the filing date, the application may not be made public under the conditions set out in Article R. 612-39 until six months have expired after the end of application of the prohibitory measures, except if the applicant has submitted within that period the request referred to in Article R. 612-39.

The applicant shall have six months as from the end of the prohibitory measures to request the drawing up of the search report or the conversion of the patent application to an application for a utility certificate.

Article R612-32

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Article R. 612-29 shall apply to the request for review of the compensation referred to in Article L. 612-10.

Sub-Section 2: Division of the Application

Article R612-33

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



If the patent application does not satisfy the provisions of Article L. 612-4, a time limit shall be given the applicant in order to divide his application or to restrict the claims.

Article R612-34

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Up to payment of the fee for granting and for printing of the patent specification, the applicant may, on his own initiative, file divisional applications for his initial patent application.

Article R612-35

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where a patent application is divided in accordance with Articles R. 612-33 and R. 612-34, each divisional application shall comply with the provisions of Articles R. 612-3 to R. 612-5.

The applicant may:

- either repeat in each divisional application the contents of the initial application, restricting the claims to the subject matter alone of the divisional application;
- or restrict the description, the claims and the drawings of each divisional application to its subject matter exclusively; in such case, they shall contain, apart from the wording, the claims and the figures extracted respectively from the description, the claims and the drawings in the initial application, only those connecting and explanatory phrases required for clarity of exposition.

The file of one of the divisional applications shall be constituted by the file of the initial application after having applied the provisions of the preceding paragraph.

Notwithstanding the provisions of Articles R. 612-10 and R. 612-11, the time limit within which the designation of inventor may be effected for each divisional application may not be less than two months after the invitation referred to in Article R. 612-11. The expiry date of that time limit shall be mentioned in the notification.

Sub-Section 3: Correction, Withdrawal and Publication of the Application

Article R612-36

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Up to the time of payment of the fee for grant and printing of the patent specification, the applicant may submit a reasoned request for correction of errors of expression or transcription and of errors discovered in the filed documents.



If the request concerns the description, the claims or the drawings, correction shall only be authorized if it is obvious that no other wording or line could manifestly have been intended by the applicant.

The request shall be submitted in writing and shall contain the wording of the proposed amendments; it shall be admissible only if accompanied by proof of payment of the required fee.

Article R612-37

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Subject to Article L. 612-13, if the examination referred to in Article L. 612-11 has determined irregularities, the description, the claims or drawings may be amended, but only to the extent required to remedy the irregularities that have been determined.

Article R612-38

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The patent application may be withdrawn at any time by means of a written declaration up to payment of the fee for granting and printing of the patent specification.

The declaration may refer to one application only. It shall be submitted by the applicant or by a representative, who, unless he has the capacity of industrial property attorney, shall be required to attach to the declaration special powers for withdrawal.

If the patent application has been filed on behalf of more than one person, it may be withdrawn only if requested by all such persons.

If property, pledge or licensing rights have been entered in the National Patent Register, the withdrawal declaration shall be admissible only if accompanied by the written consent of the holders of such rights.

If the application is withdrawn after publication in the Official Bulletin of Industrial Property of the notice referred to in Article R. 612-39, the withdrawal shall be entered *ex officio* in the National Patent Register.

In all cases where an application is withdrawn, a copy of the application shall be kept by the National Institute of Industrial Property.

Article R612-39

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

On expiry of the eighteen-month period referred to in Article L. 612-21, or at any time prior to expiry of that time limit on a written request by the applicant, a notice shall be published in the Official Bulletin of Industrial Property to the effect that the patent application has been made public.



As from the day of publication referred to in the preceding paragraph, any person may inspect at the National Institute of Industrial Property the elements of the file of the patent application and obtain copies thereof at his own cost.

Any application for which the benefit of the filing date of one or more earlier applications has been requested in accordance with Article L. 612-3 shall be made public eighteen months after the earliest filing date that it enjoys.

However, an application that has been refused or withdrawn before technical preparation has begun for publication shall not be made public unless it is an application that has been divided.

An application whose filing date has been claimed in a subsequent application shall be made public even if it has been withdrawn or refused prior to the beginning of the technical preparation unless the claim has been renounced within that same period.

Article R612-40

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The duration of the technical preparation referred to in Article R. 612-39 shall be laid down by decision of the Director General of the National Institute of Industrial Property. The decision shall be published in the Official Bulletin of Industrial Property.

Article R612-41

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The following shall not be communicated to the public:

Draft decisions and opinions as also elements not communicated to the applicant and which have served to prepare such decisions and opinions.

The elements relating to the designation of the inventor if he renounces designation as inventor in accordance with Article R. 611-16.

Any other element excluded from consultation by decision of the Director General of the National Institute of Industrial Property on the ground that it is of no interest for the information of third parties.

Article R612-42

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where the invention relates to a microorganism, any person may either as from the publication date referred to in Article R. 612-39 or prior to that date if a copy of the patent application has been notified to him, request access to the culture deposited in accordance with Articles R. 612-14 and R. 612-15.



The request shall be submitted in writing to the National Institute of Industrial Property. It shall contain, in particular, the name and address of the person making the request and his undertaking:

1. Not to communicate to any person the culture or a culture derived from it unless the patent application has been refused or withdrawn or the patent has ceased to have effect;
2. To use the culture or a culture derived from it for experimental purposes only, unless the patent application has been refused or withdrawn or the notice of grant referred to in Article R. 612-74 has not been published; however, this undertaking shall not prevent use of the culture under a compulsory license or an *ex officio* license.

Article R612-43

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

For the purposes of Article R. 612-42 (1 and 2), derived culture shall mean any culture still possessing the characteristics of the deposited culture that are essential for the implementation of the invention. The undertakings referred to in Article R. 612-42 (1 and 2) shall not prevent the deposit of a derived culture for the purposes of patent proceedings.

The patent applicant may state in a written declaration made before completion of the technical preparation for publication referred to in Article R. 612-39 that, up to publication of the grant of the patent, of the withdrawal or refusal of the application, only an expert designated by the requester may have access to the deposited culture. The person making the request may designate as expert:

1. Either any natural person, on condition that he furnishes proof, when filing his request, that the patent applicant has given his consent to that designation;
2. Or any natural person included in a list drawn up by the Director General of the National Institute of Industrial Property.

The expert shall have access to the deposited culture in accordance with the conditions under Article R. 612-42 and shall be required to enter the undertakings set out therein; they shall also apply to the person making the request.

Where appropriate, the National Institute of Industrial Property shall note on the request that a patent application relating to the microorganism has been filed and that the person making the request or the expert he has designated is entitled to receive a sample of the culture. A copy of the request thus supplemented shall be communicated to the body with which the culture has been deposited and to the applicant or the patent owner.

Article R612-44

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Subject to the impediments resulting from application of the provisions of Articles R. 612-27 and R. 612-28, the applicant may at any time obtain at his own cost an official copy of the documents in his patent application.

Sub-Section 4: Refusal of Application

Article R612-45

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A patent application shall be refused if:

- 1°. It has not been supplemented within the time limits laid down in Articles R. 612-11 (second paragraph), R. 612-21 and R. 612-35 (fourth paragraph);
- 2°. The fees for filing and for the search report referred to in Article R. 612-5 have not been paid within the prescribed time limit.

The refusal decision shall be notified to the applicant who shall have a period of two months as from the date of receipt of notification in order to submit his observations or to pay the due fees referred to in item 2 of this Article by paying the corresponding fee increased by the prescribed surcharge. The refusal decision shall become final if, within the prescribed time limit, the applicant has neither contested the irregularity or the failure to pay nor has paid the fee increased by a surcharge.

Article R612-46

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If, apart from the cases referred to in Articles R. 612-8 and R. 612-45, the patent application is not regular in its form with regard to the provisions of this Title or of the order taken to implement them or has not led to payment of the prescribed fees, notification thereof shall be made to the applicant.

The notification shall state the time limit afforded him in order to regularize his filing or to pay the due fees. It may be accompanied by a proposed regularization. Such proposal shall be deemed to have been accepted if the applicant does not contest it within the time limit afforded to him.

If the filing is not regularized or the fees are not paid within the time limit afforded, the patent application shall be refused.

Article R612-47

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the subject matter of the divisional application filed under Article R. 612-33 or Article R. 612-34 extends beyond the contents of the description in the initial application, the



applicant shall be invited to modify the divisional application in accordance with the instructions given to him and within the time limit afforded to him.

Within that time limit, the applicant may submit observations in writing in which he may refute the instructions given by the National Institute of Industrial Property for amending his divisional application.

If the applicant has not submitted observations or if the divisional application has not been amended in the manner proposed, the application shall be refused.

If the observations submitted by the applicant are not accepted, he shall be notified thereof. In the event of the modification of the divisional application not being made within the new time limit afforded to him, the application shall be refused.

Article R612-48

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where the applicant has been invited, pursuant to Article R. 612-33, to divide his application, he may, within the time limit laid down by that Article, submit written observations in which he refutes the objection made by the National Institute of Industrial Property.

If the applicant has not submitted observations or if he has not limited his claims or if the patent application has not been divided, the application shall be refused.

If the observations submitted by the applicant are not accepted or if the new claims do not enable the provisions of Article L. 612-4 to be satisfied, he shall be notified thereof. If the division or the limitation of the claims of the initial application are not made within the new time limit afforded him, the application shall be refused.

Article R612-49

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the patent application is likely to be refused for one of the reasons referred to in Article L. 612-12 (items 4, 5, 6 and 8), a reasoned notification thereof shall be made to the applicant. The notification shall set out the time limit afforded him in order to submit his observations or new claims.

The patent application shall be refused:

- if the applicant has not submitted observations or new claims within the time limit afforded him;
- if the observations submitted are not accepted or if the new claims do not enable the irregularity to be remedied.

Article R612-50

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



In the event of the description or the drawings failing to comply in part with the provisions of Articles L. 611-17 (a) or L. 612-1, a notification thereof shall be made to the applicant.

The notification shall set out the envisaged deletions together with the time limit afforded to the applicant in order to submit his observations.

If the applicant has not submitted observations within the time limit afforded him or if the observations are not accepted, the deletions shall be made *ex officio*.

Article R612-51

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the patent application is liable to be refused for one of the reasons set out in Article L. 612-12 (7 and 9), a reasoned notification shall be made to the applicant.

The notification shall contain a formal notice, as appropriate, to amend the patent application or to file new claims or to submit observations to support claims maintained. The notification shall set out the time limit afforded to that end.

If the applicant does not comply with the formal notice within the prescribed time limit, the patent application shall be refused.

Article R612-52

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If a patent application is refused or is liable to be refused due to failure to comply with a time limit afforded by the National Institute of Industrial Property, the refusal shall not be pronounced or shall not have effect if the applicant submits a request to continue the procedure. The request shall be submitted in writing within a period of two months as from notification of the refusal decision. The act that has not been carried out shall be carried out within that time limit. A request shall be admissible only if accompanied by payment of the required fee.

Sub-Section 5: Drawing-up of the Search Report

Article R612-53

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The procedure for drawing up the search report may be deferred under Article L. 612-15 only if the relevant request is submitted at the time the application is filed. Payment of the search report fee shall imply renunciation of that request.



Where a patent application enjoys several dates under the provisions of Article L. 612-3, the 18-month time limit during which the drawing-up of the search report may be deferred shall begin as from the earliest date.

Article R612-54

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request submitted by any third party for the purpose of instituting the procedure for drawing up the search report shall be formulated in writing. It shall be admissible only if accompanied by proof of payment of the prescribed fee.

Once the request had been received, a notification thereof shall be made to the applicant. If, within three months of the date of receipt of the notification, the applicant has withdrawn the patent application or has converted it to an application for a utility certificate in accordance with Article R. 612-55, the procedure for drawing up the search report shall not be initiated and the prescribed fee shall be refunded to the person who has submitted the request referred to in the first subparagraph.

On expiry of the time limit laid down in the preceding paragraph, the procedure for drawing up the search report shall be initiated. Once the preliminary search report referred to in Article R. 612-57 has been drawn up, it shall be notified to the third party who has submitted the request at the same time as to the applicant.

Article R612-55

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for conversion of a patent application to a utility certificate application shall be filed in writing any time during the period laid down in Article L. 612-15, even if the applicant has not made a request to avail himself of the provisions of that Article or if a third party has requested application of Article R. 612-54.

Article R612-56

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The *ex officio* conversion under the second paragraph of Article L. 612-15 shall be notified to the applicant, who shall have two months as from the date of receipt of the notification to submit observations or to request the drawing-up of the search report by paying the prescribed fee increased by a surcharge for late request.

Failing any observations during that period, the *ex officio* conversion shall be maintained.



If the observations submitted are not accepted or if the search report has not been validly requested, the *ex officio* conversion shall be confirmed and a new reasoned notification shall be addressed to the applicant.

Article R612-57

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A preliminary search report shall be drawn up on the basis of the final claims as filed, taking into account the description and, where appropriate, the drawings. It shall cite the documents that may be taken into consideration to assess the novelty of the invention that constitutes the subject matter of the patent application and the inventive step.

Each citation shall be made in relation to the claims that it relates to. If necessary, the pertinent sections of the cited document shall be identified by giving, in particular, the page, column and lines or the figures.

The preliminary search report shall distinguish between the cited documents that were published before the priority date, between the priority date and the filing date, on the filing date and subsequent thereto.

Any document referring to an oral disclosure, to a use or to any other disclosure that has taken place before the filing date of the patent application shall be cited in the preliminary search report, stating the publication date of the document and that of the non-written disclosure.

Article R612-58

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The preliminary search report shall be immediately notified to the applicant who, if prior art is cited, shall be required, subject to refusal of the patent application, to file new claims or to submit observations to support the maintained claims.

Article R612-59

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The applicant shall have a period of three months, renewable once, as from notification of the preliminary search report in order to file new claims or to submit observations for the purposes of debating the invocability of the cited prior art.

Article R612-60

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



If new claims are filed, the changes made to the claims shall be identified.

On request, the applicant may, in such case, be authorized to delete from the description and from the drawings those elements that no longer concord with the new claims. Such request shall be admissible up to the date of payment of the fee for granting and printing of the specification.

Article R612-61

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the subject matter of the new claims is not covered by the claims on the basis of which the search has been carried out, the applicant shall be notified to pay the prescribed fee for drawing up a supplementary preliminary search report. If the party concerned does not comply with the invitation within the time limit afforded him, the filing of new claims shall be declared inadmissible and the patent shall be granted with the claims on the basis of which the search was carried out.

Article R612-62

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The preliminary search report shall be made public at the same time as the patent application or, where it has not yet been drawn up, once it has been notified to the applicant. Its availability to the public shall be notified in the Official Bulletin of Industrial Property. (Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Article R612-63

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The period during which third parties may submit observations shall expire three months after the publication referred to in Article R. 612-62.

Subject to inadmissibility, third party observations shall be submitted, in duplicate, in accordance with Article R. 612-57 and shall be accompanied by the documents cited or a copy thereof and by all the required information or evidence. This latter requirement shall not apply to patents for invention; however, at the explicit request of the National Institute of Industrial Property, foreign patents shall be furnished within a two-month period as from the date of receipt of the request.

Article R612-64

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The applicant shall have a period of three months as from the date of receipt of the notification of the third party observations in order to file, in writing, his counter observations or a new wording of the claims. This period may be renewed once at the request of the applicant.

Article R612-65

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The preliminary search report may be supplemented at any time prior to the drawing-up of the search report.

In such case, Articles R. 612-57 to R. 612-64 shall be applied once more.

Article R612-66

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the patent application is withdrawn or is converted to an application for a utility certificate, the procedure for drawing up a search report shall be terminated after notification of the preliminary search report.

Article R612-67

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The search report shall be drawn up on the basis of the preliminary search report, taking into account, where appropriate, the latest filed claims, any observations by the applicant filed to support maintained claims and any observations of third parties.

It shall be drawn up on expiry of the time limits laid down in Articles R. 612-59, R. 612-61, R. 612-63 or R. 612-64, whereby the time limit that expires the latest shall be taken into consideration.

Article R612-68

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Notwithstanding the entry in the National Patent Register of property rights, pledges or licenses in a patent application, the applicant may amend the claims under that application without the consent of the holders of such rights.

Article R612-69

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



If the applicant considers that one or more elements of the cited prior art have not been taken into consideration to assess, within the meaning of Articles L. 611-11 and L. 611-14, the patentability of the invention that is the subject matter of the application since their disclosure results from an evident abuse in relation to him within the meaning of Article L. 611-13, first paragraph (second indent, (a)), he may state the fact in his observations and give succinct reasons. Such statement may not modify the content of the preliminary search report or of the search report.

Any final court decision on the application of the provisions of Article L. 611-13, first paragraph (second indent, (a)) shall be entered in the National Patent Register at the request of the applicant or of the patent owner.

Such entry shall imply the relevant amendment of the preliminary search report or of the search report.

If the entry is made after publication of the patent, the copies of the patent held by the National Institute of Industrial Property for public inspection and for sale shall have the necessary notices affixed thereto to indicate the amendment to the search report.

Sub-Section 6: Grant and Publication of Patent

Article R612-70

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

On completion of processing of the patent application, the applicant shall be invited to pay, within the time limit afforded him by the National Institute of Industrial Property, the fee for granting and printing of the specification.

Article R612-71

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The patents shall be granted in the name of the applicant by decision of the Director General of the National Institute of Industrial Property. This decision shall be notified to the applicant.

If the application has been assigned, the patents shall be granted in the name of the last assignee entered in the National Patent Register up to payment of the fee for grant and printing of the specification. However, the name of the applicant shall be mentioned.

The search report inserted in the patent shall contain, where appropriate, a mention notifying that the claims on the basis of which the search has been carried out have been amended or that observations have been submitted by the applicant or by third parties during the procedure for drawing up the search report.

The patent shall contain, in particular, particulars with regard to the filing date of the application, the date of publication of the application, the date of decision to grant and that



of publication of the grant of the patent in the Official Bulletin of Industrial Property, as also, where appropriate, notices concerning claimed priorities, the fact that it results from a division, or that at the time of filing the description or the claims were drafted in a foreign language under the conditions set out in Article R. 612-21.

Article R612-72

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of lapse of the rights deriving from a patent application due to failure to pay the fees referred to in Article L. 612-19, the patent granting procedure shall be terminated.

Article R612-73

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The wording of a claim amended following part revocation, pursuant to Article L. 613-27, shall be submitted in writing.

If the amended claim does not comply with the enacting terms of the judgment, the patent owner shall be notified thereof. The notification shall set out the changes to be made to the claim, together with the time limit afforded to the party concerned to carry out those changes.

The amended claim shall be refused if the patent owner does not comply with the notification within the prescribed time limit or does not submit observations to contest its grounds.

If the observations submitted are not accepted, the patent owner shall be notified thereof. If the party concerned does not comply with the notification referred to in the second paragraph within a renewed time limit afforded to him, the amended claim shall be refused.

Section 3: Statutory Dissemination of Inventions

Article R612-74

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A notice of grant of the patent shall be published in the Official Bulletin of Industrial Property within one month as from the date of notification of grant made to the applicant.

This notice shall include a reference to the issue of the Official Bulletin of Industrial Property in which the patent application was published together with the existence of any amendments to the claims.



Following such publication, a certified copy of the patent shall be addressed to the applicant.

Article R612-75

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The wording of patents shall be published in full and kept at the National Institute of Industrial Property.

The files of patent applications shall be kept by the National Institute of Industrial Property up to the expiry of a ten-year period following the lapse of the rights deriving from the patents.

The originals of descriptions and patent drawings not printed prior to 11 April 1902 shall remain in deposit with the National Institute of Industrial Property.

Article R612-76

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The patent collections and the Official Bulletin of Industrial Property shall be deposited for public consultation free of charge at the National Institute of Industrial Property.

They shall also be deposited for the same purposes in the towns of which a list shall be drawn up by order of the Minister responsible for industrial property and the Minister responsible for cultural affairs, either in the departmental archives or with the Chamber of Commerce and Industry or again in a public library or any other establishment designated by the Prefect.

Chapter III Rights Deriving from Patents

Section 1: Exploitation Rights Sub-Section 1: Licenses of Right

Article R613-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A request for application to a patent of the system of licenses of right under Article L. 613-10 shall be submitted in writing either by the patent owner or by one of the joint owners who shall provide evidence that he is empowered to grant non-exclusive licenses.

A request shall be declared inadmissible if:

1°. The provisions of the preceding paragraph are not complied with;



2°. The property right or joint property right of the requester has not been entered in the National Patent Register;

3°. The National Patent Register shows that an exclusive license has been granted. The decision of the Director General of the National Institute of Industrial Property shall be notified to the requester.

If the request is accepted, the decision shall be entered in the National Patent Register and published in the Official Bulletin of Industrial Property. It shall be given any additional publicity as decided by the Director General of the National Institute of Industrial Property.

Article R613-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any person who wishes to obtain a license of right shall inform the patent owner thereof by registered letter. The letter shall set out the use that is to be made of the invention. A copy of the letter, accompanied by particulars of the date it was sent to the patent owner, shall be addressed to the National Institute of Industrial Property.

Enjoyment of the license shall be granted, for the use stated, one week after the letter has been sent to the patent owner.

Failing agreement between the parties, the price of the license shall be set under the procedure laid down in Articles R. 613-4 to R. 613-8. It shall be reviewed in the same manner if justified by new events. However, no request for review may be submitted less than one year after the most recent price fixing.

Article R613-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A request for revocation of the decision to apply to a patent the system of license of right shall be submitted in writing.

Once revocation has been pronounced it shall be notified to the requester, entered in the National Patent Register and published in the Official Bulletin of Industrial Property.

Sub-Section 2: Compulsory Licenses

Article R613-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Requests for a compulsory license under Articles L. 613-11 to L. 613-15 shall be submitted to the courts designated in accordance with the provisions of Article R. 615-17.



They shall be filed, examined and judged under the common rules of law, subject to the provisions of Articles R. 613-5 to R. 613-44.

Article R613-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Subject to inadmissibility, the summons and the conclusions shall be communicated within 15 days of the serving or notification by registered mail with notification of receipt to the National Institute of Industrial Property by the party who has summonsed or notified.

Article R613-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Minister responsible for industrial property may submit to the court his observations on a request for a license by means of a memorandum addressed to the Secretariat Registry.

The Director General of the National Institute of Industrial Property or one of his officials, delegated by the Minister responsible for industrial property, shall be heard, if he so wishes, by the court.

Article R613-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Articles R. 613-4 to R. 613-6 shall apply to proceedings before the appeal court.

Article R613-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

All decisions taken by courts, appeal courts and the *Cour de Cassation* with respect to compulsory licenses shall be immediately notified by the Secretary-Registrar to the Director General of the National Institute of Industrial Property. Final decisions shall be entered *ex officio* in the National Patent Register.

Article R613-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Requests for the assignment of a compulsory license, its withdrawal or review of the conditions under which it has been granted shall be subject to the provisions of Articles R. 613-4 to R. 613-8.

Sub-Section 3: *Ex officio* Licenses in the Interests of Public Health

Article R613-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The orders of the Minister responsible for industrial property referred to in Articles L. 613-16 and L. 613-17 shall be taken on the reasoned opinion of a Committee comprised of:

- 1°. A State Counsellor, Chairman;
 - 2°. The Director General of Public Health or his representative;
 - 3°. The Director of the National Institute of Health and Medical Research or his representative;
 - 4°. The Director General of the National Institute of Industrial Property of Industrial Property or his representative;
 - 5°. The Director of Chemical Industries or his representative;
 - 6°. The Head of the Central Service for Pharmacy and Medicines or his representative;
 - 7°. Two doctors of the Paris hospitals or their alternates designated for three years by the Minister responsible for public health;
 - 8°. Two professors of the faculties of pharmacy of their alternates designated for three years by the Minister responsible for public health;
 - 9°. Two members designated by the Minister responsible for industrial property.
- The secretariat of the Committee shall be provided by the National Institute of Industrial Property.

The Committee may only meet validly, at a first convocation, if at least seven of its members are present. If the quorum is not achieved, it may validly meet, on a new convocation, whatever the number of members present.

The Chairman shall have a casting vote in the event of equal voting.

Article R613-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The reports to the Committee shall be entrusted either to its members or to members of the *Conseil d'Etat*, of the Court Audit, of the General Inspectorate of Finances and the Inspectorate of Pharmacy, appointed by order of the Minister responsible for industrial property.

The Chairman shall designate for each case one, or where necessary, more than one recorder.



The recorders shall receive an allowance of the amount that shall be laid down by joint order of the Minister responsible for industrial property and the Minister for Economy and Finance.

Article R613-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee may designate experts whose remuneration, provided under the same conditions as for experts to the courts, shall be covered by a fee order of the Chairman of the Committee.

Article R613-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the cases referred to in Article L. 613-16, the Minister responsible for industrial property shall have resort to the Committee by means of a reasoned decision taken at the request of the Minister responsible for public health.

That decision shall be notified, within 48 hours, together with its grounds, to the patent owner and, where appropriate, to the holders of licenses under the patent entered in the National Patents Register or to their representatives in France.

Its enacting terms shall be published without delay in the Official Bulletin of Industrial Property.

Article R613-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The patent owner and the holders of licenses may, within 15 days following receipt of the notification referred to in the preceding Article or, if the notification has not reached them, following the publication referred to in the same Article, submit their observations to the Committee.

Article R613-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The proposals of the recorder and the file set up by him shall be communicated to the patent owners and, where appropriate, to the holders of licenses.

The Chairman shall lay down the conditions, date and form of the communication together with the period of time within which the parties concerned shall be permitted to submit their observations.



Article R613-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Committee shall pronounce within a period of two months as from the day on which the decision by which the matter was submitted to it has reached its Secretariat.

Article R613-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The order referred to in Article L. 613-16 shall be taken immediately after the opinion of the Committee. It shall be notified to the patent owner, to the holders of licenses and to the Director General of the National Institute of Industrial Property. It shall be entered *ex officio* in the National Patent Register.

Article R613-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for a license to work under Article L. 613-17 shall be addressed to the Minister responsible for industrial property.

It shall state:

- 1°. The surname, forenames, profession, address and nationality of the requester and, where appropriate, the name of the person appointed to represent or assist the requester;
- 2°. The patent under which a license is requested;
- 3°. Proof of the requester's qualification, particularly from the legal, technical, industrial and financial points of view.

Within 48 hours of its receipt by the Minister, the request shall be notified to the patent owner and, where appropriate, to the holders of licenses entered in the National Patent Register.

Article R613-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Within a maximum period of two months as from receipt of the request, the Committee referred to in Article R. 613-10 shall give its opinion on the conditions for granting a license to work, particularly as to its duration and its scope.

This opinion shall be notified to the person requesting a license and to the patent owner and, where appropriate, the holders of licenses entered in the National Patent



Register. The Chairman of the Committee shall lay down a time limit to be afforded to the person requesting the license, to the patent owner and to the holders of licenses for communicating their observations on the conditions for granting the license envisaged by the Committee.

Those observations shall be submitted to the Committee.

Article R613-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Minister responsible for industrial property shall take his decision on the basis of the final opinion given by the Committee, after examining the observations of the parties concerned.

Article R613-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The order to grant a license to work referred to in Article L. 613-17 shall be notified to the patent owner, to the holders of licenses and to the person enjoying the requested license.

It shall be entered *ex officio* in the National Patent Register.

Article R613-22

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The person requesting the license, the patent owner and the holders of license or their representatives may be heard by the Committee responsible for giving the opinions referred to it Articles R. 613-10 and R. 613-19, either at their request or on *ex officio* convocation by the Committee.

The convocation shall be addressed to them at least 8 days in advance.

Article R613-23

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of failure to comply with the time limits laid down in Articles R. 613-14, R. 613-15 and R. 613-19 (second paragraph), the Committee shall proceed regardlessly without reminder or formal notice.

Article R613-24



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In proceedings laying down the royalties referred to in Article L. 613-17 (third paragraph), the summons shall be at a fixed date.

Article R613-25

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Amendments to clauses in the license to work requested either by the patent owner or by the holder of such license shall be decided and published under the procedure prescribed for the granting of such license. If they concern the amount of the royalties, they shall be decided under the procedure prescribed for the initial fixing of that amount.

The procedure for granting the license shall also apply to the withdrawal of the license requested by the patent owner for failure to execute the obligations imposed on the holder of the license.

Sub-Section 4: *Ex officio* Licenses in the Interest of Economic Development

Article R613-26

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The formal notice referred to in Article L. 613-18 (first paragraph) shall be the subject of a reasoned decision by the Minister responsible for industrial property, taken after consultation with the Minister for Economy and Finance and the Minister responsible for scientific research and nuclear and space matters. The decision shall set out the needs of the national economy that have not been satisfied.

The decision shall be notified, together with the grounds, to the patent owner and, where appropriate, to the holders of licenses entered in the National Patent Register or their representatives in France.

Article R613-27

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The one-year period referred to in the second paragraph of Article L. 613-18 shall begin on the day of receipt of the notification referred to in Article R. 613-26. The legitimate reasons referred to in the third paragraph of Article L. 613-18 shall be produced within that period.

The additional period of time that the Minister responsible for industrial property may afford to the person concerned under the same third paragraph shall begin on the day on which the aforementioned one-year period expires.



The decision to afford a supplementary period shall be taken and notified in accordance with the procedure and in the manner laid down for the decision to give formal notice under Article R. 613-26.

Article R613-28

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The decree in *Conseil d'Etat* subjecting the patent to which the formal notice refers to the *ex officio* license arrangements shall be taken on the basis of a joint report by the Minister responsible for industrial property, the Minister for Economy and Finance, the Minister responsible for scientific research and nuclear and space matters and, where appropriate, the Minister directly concerned in view of the subject matter of the patent.

It shall lay down the conditions to be satisfied by persons requesting an *ex officio* license, taking into account any proposals for working made by the patent owner.

It shall be notified to the patent owner and to the holders of licenses. It shall be entered *ex officio* in the National Patent Register and published in the Official Journal.

Article R613-29

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for a license to work under Article L. 613-18 (fourth paragraph) shall be addressed to the Minister responsible for industrial property.

It shall state:

1. The surname, forename and occupation of the requester and, where appropriate, the name of the person responsible for representing or assisting the requester;
2. The patent for which a license is requested;
3. Proof of the requester's qualification, from the technical, industrial and financial points of view, to work the patent concerned with respect to the conditions set out in the second paragraph of Article R. 613-28.

Article R613-30

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A copy of the request for a license shall be notified by the Minister responsible for industrial property to the patent owner and, where appropriate, to any holders of licenses in that patent. The latter shall have a period of two months as from receipt of the notification in order to submit their observations to the above mentioned Minister.

Article R613-31



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The order referred to in Article L. 613-18 (fifth paragraph) shall be notified to the patent owner, to the holders of licenses and to the person receiving the requested license. It shall be entered *ex officio* in the National Patent Register.

Article R613-32

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Proceedings for laying down the royalties referred to in Article L. 613-18 shall be heard by the First Instance Court of Paris. In such proceedings, the summons shall be at a fixed date.

Article R613-33

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Amendments to the licensing clauses requested either by the patent owner or by the holder of the license shall be decided and published under the procedure laid down for the granting of such license. If they concern the amount of the royalties, they shall be decided under the procedure laid down for the initial determination of such amount.

The procedure for granting the license to work shall also apply to the withdrawal of the license requested by the patent owner for failure to satisfy the obligations imposed on the holder of the license.

Sub-Section 5: *Ex officio* Licenses and Expropriation for the Requirements of National Defense

Article R613-34

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The application addressed by the Minister responsible for national defense to the Minister responsible for industrial property with a view to obtaining under Article L. 613-19 an *ex officio* license for the requirements of national defense shall contain all necessary details of the conditions necessary to meet those requirements and concerning, in particular:

1°. The full or partial nature of the license with regard to the applications of the invention that is the subject matter of the patent application or of the patent;

2°. The duration of the license;

3°. The respective rights and obligations of the State and of the owner of the patent application or the patent as concerns improvements or modifications made by any party to the invention.



Article R613-35

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The order of the Minister responsible for industrial property that grants a license shall lay down the conditions, taking into account the elements of the request as set out above. It shall be immediately notified by the Minister responsible for industrial property to the Minister responsible for national defense and to the owner of the patent application or of the patent. It shall be entered *ex officio* in the National Patent Register. In the case of a patent application, the entry shall be made only after that application has been made public.

Article R613-36

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Following the notifications referred to in the foregoing Article, the owner of the patent application or of the patent shall communicate to the Minister responsible for national defense, by registered mail with notification of receipt, his claims as to remuneration for the license granted to the State.

The first instance court may not be applied to for fixing the amount of the remuneration, under Article L. 613-19 (fourth paragraph), before four months have elapsed as from the date of receipt of the registered letter referred to above.

Article R613-37

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the *ex officio* license concerns the working of an invention covered by a patent application whose disclosure and free working are prohibited under Articles L. 612-9 or Article L. 612-10 (first and second paragraphs), the jurisdiction petitioned for the fixing of the remuneration for the *ex officio* license shall take its decisions, both on substance and provisional, by decision that shall not contain any analysis of the invention of a nature liable to lead to its disclosure.

Such decisions shall be taken in court chambers. The public prosecutor, the parties or their representatives alone may obtain a copy thereof.

Where the *ex officio* license concerns the working of an invention covered by a patent or by a patent application other than that referred to in the first paragraph of this Article, and if the applications of such invention that have already been implemented or envisaged are of a secret nature, the decisions of the petitioned jurisdiction shall not contain any reference liable to disclose such applications and shall be subject to the provisions of the second paragraph above.



If an expert opinion is ordered in the cases referred to in the first and third paragraphs of this Article, it may only be carried out by persons approved by the Minister responsible for national defense and, if necessary, in the presence of his representatives.

Article R613-38

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Article R. 613-37 shall apply, independently of any action to affix the remuneration for *ex officio* license, with respect to any proceedings concerning a dispute deriving from the execution of the order affording such license.

Article R613-39

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The decree ordering, subject to the conditions under Article L. 613-20, the expropriation of an invention that is the subject matter of a patent application or of a patent shall be notified by the Minister responsible for industrial property to the owner of the patent application or the patent.

Article R613-40

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Following the notification referred to in the preceding Article, the fixing of the expropriation compensation shall be carried out in the same manner as for the remuneration for the *ex officio* license under Articles R. 613-36 and R. 613-37.

Article R613-41

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If civil proceedings as referred to in Article L. 615-10 are instituted on the basis of a patent application subject to the prohibitions referred to in Articles L. 612-9 or L. 612-10 (first and second paragraphs) or if it refers to research or manufacture as referred to in the second and third paragraphs of that Article L. 615-10, the resultant court decisions shall be subject to the provisions of Article R. 613-37.

Article R613-42

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Where an appeal is lodged against an order issued in application of Article L. 612-10 (first and second paragraph) or against an order or a decree under Article L. 613-19 or Article L. 613-20 in cases where such order or decree relates to an invention whose disclosure and free working are prohibited, the administrative court shall take a decision, both of substance and provisional, that shall not contain any analysis of the invention liable to lead to disclosure.

The hearings shall take place and the decisions shall be given in a non-public session. The decision that is taken may be communicated to the parties or their representatives alone.

If an expert opinion is ordered, it may only be carried out by persons approved by the Minister responsible for national defense and, where necessary, in the presence of his representatives.

Sub-Section 6: Miscellaneous Provisions

Article R613-43

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The notifications and communications to the owner of the patent or patent application referred to in the provisions of Articles R. 613-10 to R. 613-42 shall be made validly to the address stated in the patent application or to the last address that the patent owner notifies to the administration, or to that of his representative in France. Such representative shall be the representative designated by the patent applicant at the time of filing the application, unless the designation of another representative has been notified to the administration.

All the notifications and communications addressed to the owner of the patent or the patent application, to his successors in title or to persons requesting or holding *ex officio* licenses under the provisions of Articles R. 613-10 to R. 613-42 shall necessarily be made by registered mail with notification of receipt.

Article R613-44

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Articles R. 613-4 to R. 613-43 and R. 613-51 shall apply to certificates of addition.

Section 2: Transfer and Loss of Rights

Article R613-45

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Renunciation of a patent or of one or more of its claims shall be made by written declaration.

Such declaration may concern one patent only. It shall be submitted by the owner of the patent or by a representative who, unless he has the capacity of industrial property attorney, shall attach to the declaration a special power of renunciation.

If the patent belongs to more than one person, renunciation may be effected only if requested by all such persons.

If property, pledge or licensing rights have been entered in the National Patent Register, the declaration of renunciation shall be admissible only if accompanied by the consent of the holders of such rights.

Renunciation shall be entered in the National Patent Register. It shall take effect on the date of such entry.

A notice of entry shall be addressed to the person making the renunciation.

Article R613-46

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The annual fee for maintaining patent applications and patents, referred to in Article L. 612-19, shall be due for each year of the term of the patent. The filing fee shall cover the first annual fee. The payment of annual fees shall become due on the last day of the month of the anniversary date of filing of the application. It shall not be accepted if made more than one year before the annual fee becomes due.

Article R613-47

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

I. The six-month period referred to in the second paragraph of Article L. 612-19, during which payments made after the due date shall be validated on payment of a fee for late payment, shall begin on the day on which the annual fee becomes due.

Payments shall be held to be valid when made after the due date:

- if they concern a patent application resulting from the division of a patent application on condition that it takes place at the latest on the last day of the fourth month following the date of receipt of the elements of the divisional application;
- if it supplements an insufficient payment made prior to the due date, on condition that it takes place within the above mentioned six-month period.

II. Payment shall be made at the rate in force on the day of payment unless a reminder has already been communicated stating a preceding rate. However, in cases of restoral, the payment of due fees that have not been paid on the date of entry of the decision in the National Patent Register shall be made at the rate in force on that date.



Article R613-48

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where the payment of an annual fee is not made by the normal due date, a reminder shall be addressed to the owner of the patent application or the patent advising him that he is liable to lose his rights if the payment, accompanied by payment of the fee for late payment, is not made before the expiry of the six-month period referred to in the first paragraph of Article R. 613-47.

The lack of a reminder shall not imply the liability of the National Institute of Industrial Property and shall not constitute grounds for restoring the rights of the patent owner.

Article R613-49

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request referred to in Article L. 613-22-1, to record the loss of rights in a patent application or a patent, shall be submitted in writing.

A reasoned decision shall be taken on the request. The decision shall be notified to the requester.

Article R613-50

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The following shall be entered in the National Patent Register:

- the decision recording loss of rights referred to in Article L. 613-22-1;
- the notice of institution of an appeal, of proceedings for restoral of rights and an action for cassation;
- the decisions given.

A decision to restore the rights of the patentee shall be without effect if the due fees are not paid within a period of three months as from entry of the decision in the National Patent Register. The date of payment shall be entered in the Register.

The provisions of this Article shall apply to patent applications filed before 25 September 1979 and to patents issued before that date.

Article R613-51

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The time limit referred to in the second paragraph of Article L. 613-21 shall be 15 days as from the date of signature of the seizure referred to in the first paragraph of that Article.

Section 4: Appeal for Reinstatement

Article R613-52

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Appeals for reinstatement under Articles L. 612-16 and L. 613-22 shall be filed in writing, accompanied by the prescribed fee, with the Director General of the National Institute of Industrial Property who shall take a reasoned decision.

The decision shall be notified to the appellant.

Section 5: National Patent Register

Article R613-53

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The National Patent Register shall be kept by the National Institute of Industrial Property.

For each patent application or patent there shall be found therein:

- 1°. The identification of the applicant, the references of the patent application or patent, and any subsequent acts affecting its existence or scope;
- 2°. Any acts modifying the ownership of the patent application or patent or the enjoyment of the rights deriving therefrom; in the event of a claim to ownership: the corresponding summons together with the suspension and resumption of the grant procedure;
- 3°. Changes of name, legal form or address and any corrections of clerical errors affecting entries.

No entry shall be made in the Register until the patent application has been made public as set out in Article R. 612-39.

Article R613-54

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The particulars referred to in Article R. 613-53, second paragraph (1), shall be entered either on the initiative of the National Institute of Industrial Property or at the demand of the court registrar or at the request of one of the parties in the case of a final court decision of annulment or given in proceedings to claim ownership.



Article R613-55

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The acts that modify ownership of a patent application or a patent or the enjoyment of the rights deriving therefrom, such as transfer, assignment of an exploitation right, the constitution or transfer of a pledge or renunciation thereof, seizure, validation and release of seizure, shall be entered at the request of one of the parties to the act.

The request shall contain:

- 1°. A form requesting entry;
- 2°. One of the originals of the private act laying down the change in ownership or of enjoyment or a copy of the act if authentic;
- 3°. A reproduction of the above mentioned act if the requester wishes the original or the copy to be returned to him or an extract if he wishes to restrict the entry thereto;
- 4°. Proof of payment of the prescribed fee;
- 5°. Where appropriate, the powers of the representative, unless the representative has the capacity of industrial property attorney.

Article R613-56

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Notwithstanding Article R. 613-55, second paragraph (2), the following may be submitted with the application:

- 1°. In the event of transfer mortis causa, any instrument establishing the transfer, at the request of the heirs or legatees;
- 2°. In the event of transfer due to merger, hiving off or absorption, a copy certified by the registrar or the Director General of the National Institute of Industrial Property of the relevant instruments filed at annex to the Register of Commerce and Companies;
- 3°. Subject to proof of the physical impossibility of producing the original or a copy, any document proving the change in ownership or enjoyment.

Article R613-57

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Changes of name, legal form, address and corrections of clerical errors shall be entered at the request of the owner of the patent application or the patent. However, where such changes and corrections concern an act that has already been entered, the request may be presented by any party to the act.

The request shall contain:

- 1°. A request form for entry;



- 2°. Proof of the change that has occurred or the existence of the clerical error to be corrected;
- 3°. Proof of payment of the prescribed fee;
- 4°. Where appropriate, the powers of the representative, unless he has the capacity of an industrial property attorney.

Article R613-58

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of non-compliance of the request for entry, a reasoned notification shall be made to the requester. He shall be given a time limit for regularizing his request or for submitting observations. Failing regularization or observations enabling the objection to be lifted, the request shall be refused by decision of the Director General of the National Institute of Industrial Property.

The notification may be accompanied by a proposal for regularization. In such case, the proposal shall be deemed accepted if the requester does not dispute it within the time limit afforded him.

Article R613-59

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

All entries made in the National Patent Register shall be mentioned in the Official Bulletin of Industrial Property.

Any interested person may obtain from the Institute:

- 1°. A reproduction of the entries made in the National Patent Register;
- 2°. A certificate attesting that there exists no entry.

Section 6: Establishment of the Documentary Report

Article R613-60

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The documentary report referred to in Article L. 612-23 shall be established on the basis of the search report at the written request of the patent owner or any other interested person or of any administrative authority.

Documents not cited in the search report which the requester wishes to have taken into consideration may be annexed to the request. If they are drawn up in a foreign language, a translation may be required by the National Institute of Industrial Property.



The request shall be inadmissible if it is not accompanied by proof of payment of the prescribed fee.

Article R613-61

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The documentary report shall be established according to the following procedure:

I. When requested by the patent owner:

1°. A draft shall be produced and notified to the patent owner. A time limit shall be afforded him to discuss the justification if necessary.

2°. The report shall be established on the basis of the draft and of any observations that have been made. It shall be notified to the patent owner.

II. When not requested by the patent owner:

1°. The request for the report shall be notified without delay to the patent owner. A time limit shall be afforded him to submit observations and, where appropriate, to appoint a representative satisfying the conditions laid down in Article R. 612-2.

2°. A draft shall be established on the basis of the observations received in reply. That draft shall be notified to the patent owner and to the requester. A time limit shall be afforded them to discuss the justification where necessary.

3°. The report shall be established on the basis of the draft report and of any observations that have been made. It shall be notified to the patent owner and to the requester.

The Institute shall ensure that both sides are heard. Any observation made by the patent owner or by the requester shall be notified without delay to the other party.

Article R613-62

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The documentary report shall be included in the patent file. Its issue shall be mentioned in the Official Bulletin of Industrial Property.

Section 7: Reduction of Fees and Free Assistance

Article R613-63

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for reduction of fees referred to in Article L. 612-20 shall be submitted in writing to the Director General of the National Institute of Industrial Property. It shall be accompanied by an attestation of non-liability to income tax or an equivalent proof.

A reasoned decision shall be taken. The decision shall be notified to the requester.



If the request is accepted, enjoyment of a reduction shall be afforded the requester on condition that he produce each year an attestation of non-liability to income tax or an equivalent proof.

Article R613-64

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where free assistance by an industrial property attorney is awarded, a copy of the decision shall be transmitted to the President of the National Society of Industrial Property Attorneys for the purposes of designating such attorney.

The President shall inform the attorney and, where appropriate, his employer, the inventor and the Director General of the National Institute of Industrial Property of the designation.

The designated attorney may not refuse or be refused except for serious and legitimate reasons to be assessed by the President of the National Society of Industrial Property Attorneys.

Article R613-65

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The designated industrial property attorney shall be allocated a fixed compensation for procedural acts for which assistance has been awarded.

This compensation shall be paid directly to the person concerned, or to his employer if he is an employee, by the National Institute of Industrial Property.

The amount shall be laid down in accordance with a schedule established by decision of the Director General of the National Institute of Industrial Property, following an opinion of the Administrative Council of that Institute.

The industrial property attorney may not require any further remuneration from the inventor.

Section 1: European Patents

Article R614-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The regional centers of the National Institute of Industrial Property with which applications for European patents may be filed shall be designated by an order of the Minister responsible for industrial property.



Article R614-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where a filing is made in a regional center, the documents of the application, accompanied by a duplicate of the receipt referred to in Rule 24(2) of the Implementing Regulations to the European Patent Convention shall be transmitted to the Headquarters of the National Institute of Industrial Property.

Article R614-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Filing by postal means shall be made in accordance with the requirements of the second paragraph of Article R. 612-1.

Article R614-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

With the exception of Article R. 612-31, the provisions of Articles R. 612-26 to R. 612-32 shall apply to European patent applications filed with the National Institute of Industrial Property, taking into account the provisions of Articles L. 614-4 and L. 614-5.

Article R614-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The conversion of a European patent application to a French patent application shall be effected on receipt by the National Institute of Industrial Property of the request. A national registration number shall be allocated.

Subject to the provisions of Articles L. 614-4 and L. 614-5, a notice of the conversion shall be published in the Official Bulletin of Industrial Property within one month as from receipt of the request. The notice shall contain the particulars required to identify the patent application.

Within two months as from the date of publication referred to in the preceding paragraph or, in the case of patent applications that may not be made public, as from the date of receipt of the request for conversion, the applicant shall furnish proof of payment of the fees referred to in Article R. 614-17 and, where appropriate, a translation into French of the original wording of the European patent application together with, where appropriate, the wording as amended during the procedure before the European Patent Office.



The patent granting procedure shall be prosecuted on the basis of the original wording of the patent application or its translation or, where appropriate, the wording amended during the procedure before the European Patent Office or its translation.

If the applicant does not have his place of residence or business in France he shall be required, within the same time limit, to appoint a representative in France and to communicate the name and address of such representative to the National Institute of Industrial Property.

Article R614-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If any of the conditions required under the third paragraph of Article R. 614-5 are not satisfied within the time limit referred to in that paragraph, the patent application shall be refused by a reasoned decision of the Director General of the National Institute of Industrial Property and shall be notified to the applicant. Any fees paid shall be refunded.

Article R614-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Articles R. 614-5 and Article R. 614-6 shall apply to applications for utility certificates.

Article R614-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The translation into French of the text of the European patent referred to in Article L. 614-7 shall be submitted within three months as from the date of publication in the European Patent Bulletin of the mention of the grant of the patent referred to in Article 97(4) of the European Patent Convention and, where appropriate, of the mention of the opposition decision referred to in its Article 103. The translation shall be accompanied by evidence of the required fee.

Article R614-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Mention of the submitting of the translation of the text of the European patent shall be published in the Official Bulletin of Industrial Property within one month from the date on which it was supplied. This mention shall contain the particulars required to identify the patent.



As from the day of publication of the mention referred to in the preceding paragraph, any person may inspect free of charge at the National Institute of Industrial Property the text of the translation and obtain a reproduction of it at his own cost.

Article R614-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Mention of the failure to submit a translation of the European patent or failure to pay the required fee within the time limit referred to in Article R. 614-8 shall be published in the Official Bulletin of Industrial Property. This mention shall contain the particulars required to identify the patent. Any fee paid shall be refunded.

Article R614-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The translation of the claims of the European patent application referred to in Article L. 614-9 shall be provided by the applicant. Its text shall be submitted to the National Institute of Industrial Property by the applicant, accompanied by a request for publication and proof of payment of the required fee. The provisions of Article R. 614-9 shall apply.

The request for publication shall be declared inadmissible if it is not accompanied by proof of payment of the fee.

Article R614-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Article R. 614-11 shall apply to the production of the revised translation of the text of the European patent or of the claims in the European patent application referred to in the second paragraph of Article L. 614-10.

Article R614-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The following shall be entered *ex officio* in the National Patent Register:

- 1°. The final decision referred to in Article R. 614-6;
- 2°. Failure to submit the translation and failure to pay the required fee referred to in Article R. 614-10;
- 3°. Submission of the translation and of the revised translation of the text of the European patent referred to in Articles R. 614-8 and R. 614-12;



4°. Submission of the translation and of the revised translation of the claims in the European patent application referred to in Articles R. 614-11 and R. 614-12.

Article R614-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Final court decisions pursuant to Articles L. 614-12 and L. 615-17 shall be entered in the National Patent Register, without cost, at the request of the court registrar or of one of the parties to the proceedings.

Article R614-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The annual fees referred to in Article L. 612-19 for a patent application deriving from the conversion of a European patent application effected in accordance with Articles R. 614-5 to R. 614-7 shall be due only for the years that follow the year during which the European patent application is deemed to have been converted. The annual fee to be paid shall be calculated as from the filing date of the European patent application.

Article R614-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The annual fees referred to in Article L. 612-19 that are due for the European patent application shall be paid as prescribed by Article 141 of the European Patent Convention; these fees shall be calculated as from the filing date of the European Patent application.

Where payment of an annual fee has not been made on expiry of the time limit referred to in Article 141(2) of the European Patent Convention, that fee may be validly paid within an additional six-month period on payment of a late fee within the same time limit.

Article R614-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The filing fee and, where appropriate, the fee for establishing the search report, referred to in Article R. 612-5, shall constitute the required fees referred to in the third paragraph of Article R. 614-5.

In the case referred to in the third paragraph of Article L. 614-6, the fee referred to in Article R. 612-5, item 2, shall not be required.

Article R614-18



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The publication of each translation and revised translation referred to in Articles R. 614-8, R. 614-11 and R. 614-12 shall be subject to the payment of a fee that shall become due on submission of the translation.

Article R614-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Fees shall be levied for the making and transmission of copies of the European patent application as referred to in Article 136(2) of the European Patent Convention.

Article R614-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Articles R. 411-19 to R. 411-26 and R. 618-1 to R. 618-3 shall apply to decisions, notifications and time limits referred to in Articles R. 614-1 to R. 614-19.

Section 2: International Applications

Article R614-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

An international application may be filed with the National Institute of Industrial Property at either its headquarters or at one of its regional centers designated by order of the Minister responsible for industrial property. Subject to the obligation referred to in Article L. 614-18, they may also be filed with the European Patent Office acting as a receiving Office.

Article R614-22

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The filing of an international application may be made by postal means in accordance with the second paragraph of Article R. 612-1.

The filing may be made by the applicant in person or by a representative; the provisions of the first and second paragraphs of Article R. 612-2 shall apply.

Article R614-23



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The international application shall be drawn up in French.

It shall be filed in three copies, together with each of the documents mentioned in the check list referred to in Rule 3.3(a)(ii) of the Regulations under the Patent Cooperation Treaty. However, the request referred to in paragraph 1 of the above mentioned Rule 3 and the documents evidencing the required fees shall be filed in a single copy.

If the provisions of the preceding paragraph are not satisfied, the missing copies shall be made *ex officio* by the National Institute of Industrial Property.

Article R614-24

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A receipt, stating at least the number allocated to the international application, the nature and number of application documents, together with their date of receipt, shall be issued to the applicant.

Where filing is made in a regional center, the application documents, accompanied by a duplicate of the receipt, shall be transmitted without delay to the headquarters of the National Institute of Industrial Property.

Article R614-25

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

With the exception of Article R. 612-31, the provisions under Articles R. 612-26 to R. 612-32 shall apply, taking into account the provisions of Articles L. 614-20 to L. 614-22, to international applications filed with the National Institute of Industrial Property.

Article R614-26

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The filing of an international application shall give rise to payment of the transmittal fee referred to in Rule 14 of the Regulations under the Patent Cooperation Treaty. That fee shall be paid prior to expiry of a one-month period as from the date of receipt of the international application.

Article R614-27

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The basic fee of the international fee and the search fee referred to in Rules 15 and 16 of the Regulations under the Patent Cooperation Treaty shall be paid before one month has elapsed after the date of receipt of the international application.

The international fee and the search fee shall be paid in French francs.

Article R614-28

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The designation fees forming part of the international fee shall be paid:

1°. Where the international application does not contain a priority claim under Article 8 of the Patent Cooperation Treaty, within one year as from the date of receipt of the international application;

2°. Where the international application contains such claim to priority, within one year as from the priority date or one month as from the date of receipt of the international application if such month expires after the end of the year following the priority date.

Article R614-29

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where payment of the transmittal fee, the search fee and the international fee is not made within the time limits laid down in Articles R. 614-26 to R. 614-28, the applicant shall be invited to pay within one month the amount of those fees increased by the late payment fee referred to in Rule 16bis.1(a) and (b) of the Regulations under the Patent Cooperation Treaty.

The late payment fee shall be paid in French francs.

Article R614-30

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The designations made under Rule 4.9(b) of the Regulations under the Patent Cooperation Treaty shall be confirmed prior to the expiry of 15 months as from the priority date by means of a written declaration. The declaration shall be accompanied by payment of the designation fee and the confirmation fee referred to in Rule 15.5(a) of those Regulations.

The confirmation fee shall be paid in French francs.

Article R614-31

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



If the international application and the other documents referred to in Article R. 614-23 are filed in a number of copies that is less than that laid down in the aforementioned Articles, a fee shall be levied to cover the making of the required number of copies. It shall have been paid prior to expiry of one month as from the date of notification made to that end.

Article R614-32

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The transmittal fee referred to in Article R. 614-26 shall be refunded to the applicant if the international application is not transmitted to the International Bureau within the time limit laid down by Rule 22.3 of the Regulations under the Patent Cooperation Treaty.

Article R614-33

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The payment of the fees referred to in Articles R. 614-26 to R. 614-32 shall constitute discharge if made at the rate in force on the day of payment.

Article R614-34

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Articles R. 411-19 to R. 411-26 and R. 618-3 shall apply to the disputes referred to in Article L. 411-4.

Article R614-35

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The conditions for implementing Articles R. 614-21 to R. 614-24 shall be laid down, as and when necessary, by an order of the Minister responsible for industrial property.

Section 1 Furnishing of Proof

Article R615-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The detailed description, with or without effective seizure, of allegedly infringing articles or processes, referred to in Article L. 615-5 shall be ordered by the president of the first instance court under whose jurisdiction the operations are to be carried out.

The order is given on a simple request and on production of either the patent, the supplementary protection certificate, the utility certificate or the certificate of addition, or, in the case referred to in Article L. 615-4, first paragraph, a certified copy of the patent application, the supplementary protection certificate, the utility certificate or the certificate of addition. In the latter case, the requester shall be required to show that the conditions laid down in the aforementioned Article L. 615-4 have been satisfied.

If the request is submitted by the assignee of an exclusive exploitation right or by the holder of a license granted under Articles L. 613-10, L. 613-11 or L. 613-15, the requester shall be required to show that the condition laid down by Article L. 615-2, second paragraph, has been satisfied.

Article R615-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where effective seizure is ordered, the court may require the requester to provide a guarantee that shall be deposited before the seizure is carried out.

Under the pain of invalidity and damages awarded against the bailiff, the latter, before carrying out the seizure, shall give a copy of the order and, where appropriate, of the act attesting to deposit of the guarantee, to the holders of seized or described articles. A copy of the record of seizure shall be left with the same holders.

Article R615-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The time limit referred to in Article L. 615-5, fourth paragraph, and afforded to the requester for instituting proceedings shall be 15 days as from the day on which the seizure or the description is carried out.

Article R615-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The presidents of the first instance courts referred to in Article R. 615-1 alone shall be competent to order the detailed description, with or without effective seizure, of the articles alleged to be infringing in accordance with Article R. 615-1.

Article R615-5



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where, in a civil dispute concerning patents, a technical opinion appears necessary, the president of the court hearing the case shall consult, with regard to the choice of expert, one of the bodies designated by a joint order of the Keeper of the Seals and of the Ministers concerned.

Such consultation shall be mentioned in the order or the judgment.

Section 2: Joint Conciliation Board

Article R615-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman of the Joint Conciliation Board referred to in Article L. 615-21 shall be appointed for a renewable period of three years by an order of the Keeper of the Seals, Minister for Justice, and of the Minister responsible for industrial property. An honorary magistrate may be appointed.

One or more alternates may be appointed in the same manner. They shall replace the Chairman in the event of absence or impediment.

Article R615-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Chairman shall be assisted by two assessors, that he shall designate for each case from a list of persons competent in the matters to be heard by the Board.

The list shall be drawn up and periodically updated by the Director General of the National Institute of Industrial Property on the proposal of the nationally representative professional and union organizations.

One of the assessors shall be chosen from among the persons proposed by the employees' organizations and the other from amongst the persons proposed by the employers' organizations.

If an invention concerns national defense or results from a study or manufacturing contract comprising a defense secrecy classification, the assessors shall possess a secrecy clearance issued by the Minister responsible for defense. The same shall apply to the experts appointed or technicians that are consulted.

Article R615-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The secretariat of the Board shall be provided by the National Institute of Industrial Property.

Article R615-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Board shall meet at the National Institute of Industrial Property or, on a decision of the Chairman, in one of its provincial centers where circumstances require.

Article R615-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The members of the Board shall be allocated a lump sum compensation for the cases that they hear.

The compensation shall comprise the reimbursement of miscellaneous costs for secretarial work, correspondence or travel outside their place of residence, required for the accomplishment of their task.

The rate and conditions for affording the lump sum compensation shall be laid down by a joint order of the Ministers responsible for finance and for industrial property.

Article R615-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Expenditure incurred during travel that the members of the Board may be required to effect outside their place of residence in order to accomplish their tasks shall be refunded to them in accordance with the conditions applicable to group I officials.

Article R615-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The Board shall be petitioned by means of a request filed with the secretariat either by the requester or by a representative holding powers. The request may also be addressed by registered mail with notification of receipt.

Article R615-13

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request shall be signed by the requester or his representative.



It shall state:

1°. The surname, forenames, profession and address of the requester and of the other parties;

2°. The subject of the dispute;

3°. The requester's grounds and conclusions;

4°. All elements in his possession that may be of use in resolving the dispute.

There shall be annexed thereto a copy of the declaration and communications made pursuant to Articles R. 611-1 to R. 611-10 together with various documents which the requester wishes to submit.

Article R615-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the request does not comply with the provisions of the preceding Article, the secretariat shall invite the requester to complete it within one month.

There shall be faculty, prior to expiry of that time limit, to submit the compliance of the request to the judgment of the Chairman. If the Chairman confirms the invitation made by the secretariat, he shall afford the concerned party a new time limit for complying therewith.

The time limits set out in the preceding paragraphs shall be extended, on a decision by the Chairman, if the requester is able to give good reason.

The date of submission to the Board shall be that on which the request has been completed in accordance with the provisions of this Article.

Article R615-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Submission of the case to the Board shall be notified to the other party by the secretariat.

Such party shall be invited at the same time to communicate, within a time limit afforded by the Chairman, his written observations on the justification of the request.

The Minister for Defense shall be entitled to have cognizance at the secretariat of the Board of all oppositions submitted to the Board.

Article R615-16

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Within the time limit set by the Chairman, the National Institute of Industrial Property shall communicate to the Board all the elements in its possession that may be disclosed without prejudice to third party rights or to the interests of national defense.



A copy of such communication shall be immediately addressed to the parties by the secretariat.

Article R615-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Once the assessors have been designated, the secretariat shall notify the composition of the Board to the parties and shall convene them for a preliminary meeting.

Each party may request the changing of assessors for a serious and legitimate reason to be evaluated by the Chairman.

Such request shall be submitted within 15 days of the notification or on the opening of the preliminary meeting if the latter takes place before expiry of that time limit.

Article R615-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Proceedings before the Board shall be in the presence of the parties.

Article R615-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

On the appointed day, the Board shall hear the parties, shall endeavor to harmonize their points of view and reach a conciliation.

If one of the parties does not appear, the Board shall note its absence and shall hear the other party.

A record shall be drawn up.

In the event of full or part conciliation, the record shall mention the contents of the agreement. Failing full conciliation, the contested points shall be recorded.

Article R615-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If one of the parties does not appear or failing full conciliation, the Board shall formulate the conciliation proposal referred to in Article L. 615-21.

Article R615-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The Chairman may take any examining measure. He may ascertain at any time the conciliation of the parties or bring about to that end a new meeting.

Article R615-22

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Save authorization by the Chairman, only the members of the Board and of the National Institute of Industrial Property, together with the parties and persons assisting or representing them, shall be present at conciliation meetings.

Article R615-23

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of a request from the party who has not petitioned the Board or of the joining of more than one request relating to the same invention, the six-month period during which the conciliation proposal is formulated shall begin on the date on which the latest submission was made to the Board.

Article R615-24

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

If the invention concerns national defense, the conciliation proposal shall not contain any analysis of the invention liable to lead to its disclosure.

Article R615-25

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The conciliation proposal shall be signed by the Chairman and by the secretary.
The latter shall notify it to the parties.

Article R615-26

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Proceedings before the Board shall suspend all terms of prescription.

Article R615-27

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



On evidence of proceedings before the Board, the first instance court shall suspend its decision until the six-month period referred to in Article L. 615-21 has elapsed unless the Board has already formulated its conciliation proposal.

Article R615-28

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Failing agreement between the parties, the Board's proposal alone shall be submitted to the court.

Article R615-29

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

An agreement between the parties resulting from the conciliation proposal in the case referred to in Article L. 615-21 shall be rendered enforceable by a decision of the president of the first instance court within the competence of which the conciliation proposal has been formulated.

Article R615-30

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 96-857 of 2 October 1996 art. 3 Official Journal of 3 October 1996)

Subject to the measures referred to in Article R. 615-31, the provisions of Articles R. 615-6 to R. 615-29 relating to the Joint Conciliation Board shall apply to disputes deriving from the application, under the conditions set out in Articles R. 611-11 to R. 611-14-1 of Article L. 611-7.

Article R615-31

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

With regard to disputes concerning the officials or servants referred to in Articles R. 611-11, a special list shall be drawn up from which shall be chosen for each case the two assessors of the Chairman of the Joint Conciliation Board.

Subject to the provisions of the final paragraph of this Article, that list shall contain the persons entered on a proposal, on the one hand, of the Ministers and, on the other, of the organizations representing the staff.



The list of such organizations shall be lay down by order of the Prime Minister on a proposal by the various Ministers.

One of the assessors shall be chosen from persons proposed by the above mentioned organizations, the other among the persons proposed by the Ministers.

Where the invention has been made by a servant subject to the general status of military persons, the assessor representing the servant shall be designated by the Chairman of the Conciliation Board from a list of five members of the military corps of general inspection of the armies drawn up by the Head of the General Inspectorate of the Armies and periodically updated.

Chapter VI: Utility Certificates

Article R616-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

As from the day of publication, referred to in Article R. 612-39, of the utility certificate application referred to in Article L. 611-2, and up to the date of issue of the certificate, any person may submit to the National Institute of Industrial Property observations on the patentability of the invention in the manner set out with regard to patent applications in Article R. 612-63, second paragraph.

The content of such observations shall be notified without delay to the applicant who shall have a period of three months to reply thereto.

Article R616-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The search report that is required in any proceedings for infringement instituted with respect to a utility certificate application or a utility certificate shall be drawn up at the written request of the applicant.

The request shall be admissible only if accompanied by proof of payment of the prescribed fee.

Article R616-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Chapters I, II, III, V, VI and VIII of this Title shall apply to utility certificate applications and to utility certificates, with the exception of Articles R. 612-53 to R. 612-69, of the third paragraph of Article R. 612-71, of Articles R. 613-1 to R. 613-3 and R. 613-60 to R. 613-62.



Chapter VII: Supplementary Protection Certificates

Article R617-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The filing fee for a supplementary protection certificate shall not cover the first annual fee. The payment of annual fees shall become due on the last day of the month of the anniversary date of the filing of the application for the basic patent. Overall payment of all annual fees may be accepted if made within the year preceding the entry into effect of the certificate.

Article R617-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Articles R. 611-18 to R. 611-20, R. 612-1, R. 612-2, R. 612-5(1), R. 612-6, R. 612-7, R. 612-36, R. 612-38, R. 612-52, R. 612-71 (first and second paragraphs), R. 612-72, R. 613-1 to R. 613-3, R. 613-45 to R. 613-59 and R. 618-1 to R. 618-3 shall apply to applications for supplementary protection certificates and to supplementary protection certificates.

Sole Section: Procedure

Article R618-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A notification shall be deemed regular if made:

Either to the last owner of the patent application declared to the National Institute of Industrial Property or, after the publication referred to in Article R. 612-39, to the last owner of the patent application or patent entered in the National Patent Register;

Or to the representative.

If the owner is resident abroad, notification shall be deemed regular if made to the last representative that he has appointed to the National Institute of Industrial Property.

Any person who effects payment of the fees relating to a patent application or a patent filed prior to 1 July 1979 and of which he is not the owner shall be deemed, save contrary statement by the owner, to act in the capacity of representative and to be empowered to receive the notifications referred to in Articles L. 613-22 and R. 613-48.

Article R618-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The notifications referred to in Article L. 613-22 and in Articles R. 612-8, R. 612-9, R. 612-11, R. 612-46 to R. 612-49, R. 612-56, R. 612-73, R. 613-52 and R. 613-58 shall be made by registered mail with notification of receipt.

The registered mail may be replaced by handing the letter to the recipient, against a receipt, at the premises of the National Institute of Industrial Property.

If the address of the recipient is unknown, the notification shall be made by publication of a notice in the Official Bulletin of Industrial Property.

Article R618-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where a period of time is expressed in days, the day of the act, of the event, of the decision or of the notification that causes the period to run shall not be counted.

Where a period is expressed in months or in years, the period shall expire on the day of the final month or the final year having the same number as the day of the act, event, decision or notification from which the period runs. Failing an identical number, the period shall expire on the last day of the month.

Where a period is expressed in months and days, the months shall be counted first and then the days.

All periods of time shall expire on the last day at midnight.

A period of time that would normally expire on a Saturday, Sunday, public holiday or non-working day shall be extended to the first working day thereafter.

Article R618-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The time limits afforded by the National Institute of Industrial Property under this Title shall be neither less than two months nor more than four months.

Article R618-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The implementing provisions for Articles R. 612-1 to R. 612-25 and R. 613-53 to R. 613-59 shall be laid down by an order of the Minister responsible for industrial property.

Chapter II: Semiconductor Products

Article R622-1



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The deposit of topographies of semiconductor products referred to in Articles L. 622-1 to L. 622-7 shall be made with the National Institute of Industrial Property.

Article R622-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A deposit may concern one topography only.

It shall contain:

- 1°. A declaration of deposit containing information adequate to identify the depositor, the topography and the date and place of first exploitation or, failing that, the date on which it was fixed or encoded for the first time;
- 2°. A graphical representation of the topography, inserted in an envelope, in which those parts that the depositor does not wish to have communicated to third parties have been masked; the representation may be accompanied by a data medium and specimens of a product incorporating the topography;
- 3°. Proof of payment of the fee.

The form of the deposit declaration and the physical specifications to be met by the representation of the topography and the envelope in which it is inserted shall be laid down by decision of the Director General of the National Institute of Industrial Property.

Article R622-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The date of deposit to be accorded to the depositor shall be the date on which the elements referred to in the preceding Article have been submitted. He shall also enjoy that date if the elements are irregular as to form, on condition that their regularization does not imply any change in the representation of the deposited topography.

In the event of non-compliance of the deposit or of physical irregularity, notification shall be made to the depositor to regularize the deposit within a time limit afforded him by the Director General of the National Institute of Industrial Property and which may not be less than two months or more than four months. Failing regularization, the deposit shall be refused.

Once the deposit has been recognized as in compliance it shall be registered. The registration shall be notified to the depositor and mentioned in the Official Bulletin of Industrial Property.

Article R622-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Any person may inspect the deposit files at the headquarters of the National Institute of Industrial Property. No copy of a file may be made without the authorization of the holder.

Article R622-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The deposit may not be invoked against third parties if the wording of the declaration supplemented by the representation accessible to the public does not enable the protected topography to be identified.

Article R622-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Articles R. 411-19 to R. 411-26, R. 612-1 (second paragraph), R. 612-2, R. 612-38, R. 613-45, R. 613-53 to R. 613-59 and R. 618-1 to R. 618-3 shall apply to the conditions for accepting deposits, for transmitting or modifying the rights deriving therefrom, for issuing the notifications of the National Institute of Industrial Property and for settling disputes.

For the application of Articles R. 613-53 to R. 613-59, the national register referred to in those Articles shall comprise a section known as the National Register of Deposits of Topographies of Semiconductor Products. The first entry referred to in Article R. 613-53 shall concern the contents of the deposited declaration, supplemented by the dates and references of the deposit and its registration.

Article R622-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

During the two months preceding expiry of the term of protection, the holder of the deposit may request a return of the elements or their conservation for an additional, renewable period of ten years.

The request for conservation shall be admitted only if accompanied by payment of the prescribed fee.

Failing a request for return or conservation, the elements of the deposit may be destroyed.

Article R622-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



The determination of reciprocity required for the application of Article L. 622-2 shall be given by a joint order of the Minister responsible for foreign affairs and the Minister responsible for industrial property.

Section 1: The issue and renewal of new plant variety certificates
Sub-section 1: Filing of applications for New Plant Variety Certificates

Article R623-1

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April 1995)

The application for a new plant variety certificate shall be filed with the Secretariat General of the Committee for the Protection of New Plant Varieties. The filing of the application may also be made by registered mail with a request for notification of receipt.

Article R623-2

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The filing may be made by the applicant or by an agent having his domicile, registered office or establishment in France.

Article R623-3

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Natural or legal persons not having their domicile, registered office or establishment in France and who apply for new plant variety certificates in accordance with Article L. 623-6 shall, within two months of the receipt of the notification addressed to them to that effect, appoint an agent having his domicile, registered office or establishment in France. Unless otherwise provided, the power of attorney of the agent appointed in accordance with the conditions shown in Article R. 623-2 and in the preceding paragraph shall cover all acts and the receipt of all the notifications provided for in this Section, with the exception of the withdrawal of the application or the surrender of the certificate.

Such power of attorney shall not require authentication.

Article R623-4

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)



The application for a new plant variety certificate shall include, in particular:

- a description of the manner in which the variety was bred or discovered;
- a full description of the variety, specifying the characteristics which, in the applicant's opinion, enable it to be distinguished from the varieties already known. For varieties whose commercial production requires the repeated use of another variety, the characteristics of that other variety shall also be described;
- the denomination proposed by the breeder;
- the names, where appropriate, of the States in which applications for protection have been filed, and an authorization for the Committee to exchange with the competent authorities of any State, whether or not a member of the International Union for the Protection of New Varieties of Plants, all items of information on the results of past or current examinations of the variety concerned;

The application may be accompanied by drawings or photographs and by any information which may assist the Committee for the Protection of New Plant Varieties concerning, in particular, official or private trial cultures carried out in France or abroad.

Article R623-5

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The applicant shall submit the following with the application for a new plant variety certificate:

1°. A declaration stating:

- that the variety for which protection is sought is, to his knowledge, a new plant variety within the meaning of Article L. 623-1;
- that it has not been offered for sale or marketed in France with the agreement of the breeder or his successor or successors in title;
- that it has not been offered for sale or marketed in France with the agreement of the breeder on the territory of any other State for longer than six years in the case of grape vine, forest trees, fruit trees and ornamental trees, including in each case their rootstocks, or for longer than four years in the case of other genera or species;

2°. Where appropriate, if the application relates to a variety whose commercial production requires the repeated use of a protected variety, the written authorization of the owner of the new plant variety certificate to use that protected variety;

3°. An undertaking to provide at the request of the Committee and within the period laid down, subject to rejection of the application, such reproductive or propagating material of the variety as may allow that variety to be examined, including, where applicable, the various hereditary components necessary for the reproduction of the variety;

4°. Where relevant, the power of attorney of the agent;

5°. Proof of payment of the fees due at the time of filing the application.



Article R623-6

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Subject to the provisions laid down in Article R. 623-7 below, to be registrable, the denomination must enable the variety to be identified and distinguished from any other variety, and shall not give rise to any risk of confusion with another variety of the same or a closely related botanical species, in France or in States party to the Paris Convention of 2 December, 1961, for the Protection of New Varieties of Plants. The denomination shall not be liable to mislead or cause confusion as to the origin, source, characteristics or value of the variety, or to the identity of the breeder. It shall not be contrary to public policy or morality. Where the denomination has been filed as a trademark, within the meaning of the law on Trademarks and Service Marks arising from the provisions of Book VII of this Code, by the breeder or his successor or successors in title in France or in a State party to the Convention mentioned above, in respect of identical or similar goods, or where the denomination is likely to cause confusion with another mark used by him, the breeder shall make a written undertaking, on behalf of himself and, where appropriate, of all his successors in title, to finally renounce, with effect from the day of issue of the new plant variety certificate, all rights to use the said mark in France and in the States of the Union in which his variety may be protected by legislation enacted in accordance with the Convention mentioned above. Trademarks filed in application of Book VII of this Code, shall be understood as including the trademarks internationally registered and extended to France under the Madrid Agreement of 14 April, 1891, concerning the International Registration of Trademarks, which enjoy protection within the territories to which the law relative to the protection of plant varieties applies.

Renunciation under this Article shall not affect the validity of the trademark filing itself.

Article R623-7

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Where a variety has already been the subject of an application for protection in another State of the International Union for the Protection of New Varieties of Plants and is a denomination has been accepted by that State, it shall be mandatory to use that denomination in France for designating the variety in question, unless it has been the subject of observations found to be justified under the conditions provided for in Articles R. 623-17 to R. 63-26 or the Committee for the Protection of New Plant Varieties has found it to be unsuitable in the territories to which this law applies or the denomination does not meet the requirements of the first paragraph of Article R.623-6.

Article R623-8



(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The application for a new plant variety certificate may include, under the conditions provided for in Article L.623-6, a priority claim based on a prior filing in one of the States of the International Union for the Protection of New Varieties of Plants. Such claim shall be submitted in writing at the same time as the documents referred to in Article R. 623-5. It shall specify the date and references of the prior filing, the denomination under which the variety was registered or, failing this, the provisional breeder's reference, the country in which the filing was made and the name of the owner of the rights deriving from the filing. It shall be accompanied by proof of payment of the prescribed fee.

Article R623-9

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Enjoyment of the right of priority shall be granted only if:

- 1°. Within three months from the date of filing the application, the applicant provides the Secretariat General of the Committee with copies of the documents constituting the prior filing in any other country of the Union, certified to be true copies by the office having received such filing and accompanied by a translation;
- 2°. Within four years from the same date, the applicant furnishes the complementary documentation and, where applicable, the reproductive or vegetative propagating material necessary for the preliminary examination.

Article R623-10

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The documents to be submitted in accordance with Articles R. 623-4 to R. 623-6 above and Articles R. 623-15, R. 623-17 and R. 623-36 below shall be drawn up in French. The Committee may require any other document communicated to it to be drawn up in French or accompanied by a translation.

Article R623-11

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The filing date of an application for a certificate shall be secured if at least the documents specified in Article R. 623-5 are produced at the time of such filing, even if they contain formal defects.

If the filing does not include the aforementioned documents, the application shall be declared inadmissible and returned to the applicant; any fees paid shall be refunded.



If the filing contains formal defects, they shall be remedied within two months of the notification to the applicant, failing which the application shall be rejected and returned to the applicant.

Article R623-12

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Notwithstanding the provisions of Article R.623-4 above, a provisional reference may be given in place of a denomination to designate the variety being the subject matter of the application at the time of the filing of the application. In such case, the denomination must be proposed, subject to inadmissibility of the application, within two months of the notification addressed by the Committee to the owner of the application.

Article R623-13

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

A copy of the application for a new plant variety certificate, bearing a stamp giving the day and time of filing and a registration number, shall be handed to the applicant at the time of filing.

Where the filing is made by mail, the applicant's copy of the application may be sent to him by the same means. The date and time of filing shall in that case be the date and time of receipt by the Secretariat General of the Committee for the Protection of New Plant Varieties, of the envelope containing the application; if payment of the fees due at the time of filing is not made until later, the date of filing of the application by mail shall be the date of such payment and the time of filing shall be the closing time, on that day, of the offices of the Secretariat General of the Committee. The application shall be declared inadmissible if payment is not made within two months of the receipt of the application by the Secretariat General of the Committee for the Protection of New Plant Varieties.

Article R623-14

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The application shall be entered in the Register of Applications for New Plant Variety Certificates provided for in Article R. 623-38 below, in the order of its filing and under the number communicated to the applicant.

This number shall appear on all notifications provided for under this Section until such time as the new plant variety certificate is issued.

Article R623-15



(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Until the new plant variety certificate is issued, the applicant may request correction of substantive errors discovered in the documents submitted.

Such request shall be presented in writing and shall contain the text of the amendments proposed by the applicant. It shall be entered in the Register of Applications for New Plant Variety Certificates and shall not be admissible unless it is accompanied by proof of payment of the prescribed fee.

Sub-Section 2: Examination of Applications for New Plant Variety Certificates

Article R623-16

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Subject to the provisions of Article R. 623-44, any application for a new plant variety certificate filed in due form shall be announced in an official bulletin to be published by the Committee for the Protection of New Plant Varieties.

The purpose of this publication shall be, in particular, to bring the application for a new plant variety certificate to the notice of any person having an interest therein.

The publication shall specify the date of filing, the name and address of the applicant, and that of the breeder when he is not the applicant, the denomination proposed or, failing this, the breeder's reference, the genus or species to which the variety belongs and a summary of the latter's characteristics.

As from the day of publication in accordance with the preceding paragraphs, any person may take cognizance of the application as entered in the Register of Applications for New Plant Variety Certificates.

Article R623-17

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Within two months of the date of the publication in accordance with the preceding Article, any person having an interest therein may submit observations to the Committee for the Protection of New Plant Varieties.

Article R623-18

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)



Disputes relating to the validity of the breeder's right to the variety for which a new plant variety certificate is sought shall be brought directly before the tribunaux de grande instance or, in overseas territories, before the courts of the first instance.
Such disputes shall be entered in the Register.

Article R623-19

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Where the variety denomination proposed by the breeder or his successor in title did not appear in the initial application, or where the breeder proposes a new denomination at the request of the Committee, such denomination shall be published in the Official Bulletin of the Committee for the Protection of New Plant Varieties.

Article R623-20

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Observations submitted shall be notified by the Committee for the Protection of New Plant Varieties to the owner of the application. The Committee shall fix the time by which the applicant must reply.

Article R623-21

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Where a filing has been duly made in accordance with the above requirements, the Committee shall examine the application for a new plant variety certificate, and any observations relating thereto.

The Committee shall fix its own examination procedure.

Pursuant to the provisions of Article L. 623-12, the Committee may decide not to make a preliminary examination of the variety if French or foreign documents in its possession show that such an examination has already been made and the information contained in those documents appears sufficient for it to be able to take a decision.

Where the Committee decides to order an examination of the variety, it shall lay down its duration and its details. Examination shall relate to novelty, homogeneity and stability, excluding any evaluation of the variety's value for cultivation; it shall be made only upon proof of payment of the fee due.



Article R623-22

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Where a proposed denomination is found by the Committee to be at variance with Articles R. 623-6 and R. 623-7 and with the orders issued for the implementation of this Section, or is the subject of observations found to be relevant by the Committee, the breeder shall be invited to submit another denomination within two months of the notification to this effect. The new denomination shall undergo the same process of examination and publication. If the breeder does not propose a new denomination within the prescribed period, the application for a certificate shall be declared inadmissible. Fees already paid shall not be refunded.

Article R623-23

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The examination shall be suspended at the written request of any person who provides proof that he has brought before the tribunal de grande instance or, in overseas territories, before the court of first instance, an action claiming title to the application for a new plant variety certificate. Trials decided upon by the Committee may, however, be carried out. The examination shall be resumed as soon as the court has rendered a final decision. It may also be resumed at any time, with the written consent of the person who has brought the action. Such consent shall be irrevocable. During this period, the owner of the application may not withdraw it without the consent of the person who has brought the action. Furthermore, the latter shall be called upon to take part in the examination procedure on the same footing as the owner of the application.

Article R623-24

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

When the various examination measures decided by the Committee have been carried out, a summary report on the results of the examination shall be communicated to the owner of the application; the latter shall have two months in which to submit his observations. He may, during this period, inspect the whole examination file at the Secretariat General of the Committee.

Any person who has submitted observations under the conditions prescribed by this Section and by such orders of the Minister of Agriculture as may be issued for its implementation shall be informed of the conclusions of the report on his observations. He may submit further observations during the same period as stated above.

Sub-Section 3: Issue of New Plant Variety Certificates



Article R623-25

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

On expiry of the period laid down in the preceding Article, the Committee shall take a decision on the application. It may decide either to issue the new plant variety certificate, or to reject the application, or to have an additional examination carried out under conditions and within periods which it shall itself fix.

The Committee shall give reasons for its decision. The decision shall be notified to the applicant and, where appropriate, to any persons who have submitted observations.

Article R623-26

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The new plant variety certificate shall be issued by the Committee for the Protection of New Plant Varieties. It shall be made out in the name of the owner of the application for a new plant variety certificate. If the owner of the application is not the breeder, the latter's name shall be mentioned on the new plant variety certificate.

The certificates shall in particular specify, in addition to the denomination of the variety and its botanical description, the date of filing the application, the date of issue of the certificate, the various publicity measures and details concerning the priorities where there are claimed thereto.

Where, pursuant to the provisions of Articles R. 623-4, R. 623-7 and R. 623-22 above, the variety is designated by one or more other denominations in the various States of the International Union for the Protection of New Varieties of Plants, those other denominations shall be mentioned, for information purposes, on the new plant variety certificate.

Article R623-27

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The certificate shall be entered in the National Register of New Plant Variety Certificates in accordance with Article R. 623-40 below.

Article R623-28

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)



The issue of the new plant variety certificate shall be published in the Official Bulletin of the Committee for the Protection of New Plant Varieties within three months from the date of notification of issue to the owner of the new plant variety certificate.

Article R623-29

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

As from the day of publication in the Official Bulletin, any person may take cognizance of the new plant variety certificate as entered in the Register of New Plant Variety Certificates, at the headquarters of the Committee. Such person may obtain, at his expense, extracts from the Register. He may also take cognizance of the documents in the file relating to the application and the examination procedure, or obtain copies thereof at his expense, and generally receive all information on the variety concerned, subject to any special measures which may be decided by the Committee for the Protection of New Plant Varieties to protect the rights of the breeder in varieties whose commercial production requires the repeated use of one or more other varieties.

Article R623-30

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The Committee for the Protection of New Plant Varieties shall not be obliged to retain applications for new plant variety certificates beyond a period of ten years after the expiration of the rights deriving from the corresponding certificates.

Sub-Section 4: Annual Fees

Article R623-31

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The annual fee referred to in Article L. 623-16 (2nd paragraph) shall fall due for the first time on the date of issue of the new plant variety certificate. It shall be paid within two months of the notification to the owner of the new plant variety certificate from the Committee for the Protection of New Plant Varieties. In subsequent years, the fee shall fall due on the last day of the same month as that in which the new plant variety certificate was issued.

As from the second year, if payment of the annual fee is not made on the due date as defined above, it may still be validly made within a further period of six months, subject to payment of a surcharge.



Article R623-32

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

If the payment of an annual fee is not made on the normal due date, a reminder shall be sent to the owner of the new plant variety certificate, informing him that he will risk the forfeiture of his rights if such payment, together with the surcharge for late payment, is not made before expiration of the period provided for in the third paragraph of Article R. 623-31 above. Failure to send a reminder or any error which such reminder might contain shall not give ground for reinstatement of the rights of the owner of the new plant certificate.

Article R623-33

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

If the payment of an annual fee, together with the surcharge for late payment, where appropriate, is not made within the periods specified above, the Committee for the Protection of New Plant Varieties shall declare the breeder's rights to be forfeited. Such forfeiture shall be entered in the National Register of New Plant Variety Certificates and published in the Official Bulletin of the Committee for the Protection of New Plant Varieties. The grounds for the decision shall be stated and the forfeiture shall be notified to the person who is the owner of the new plant variety certificate at the time of the entry in the National Register of New Plant Certificates. The person concerned shall be informed that he has six months from the expiration of the last period in which to appeal to the Committee for reinstatement of his rights under the conditions provided for in Article L. 623-23. To be valid, the appeal must be accompanied by proof of payment of the annual fee and of a fee for the entry of the appeal in the National Register of New Plant Variety Certificates.

Article R623-34

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The Committee for the Protection of New Plant Varieties shall take a decision within two months. Where the appeal is dismissed, the amount of the last annual fee shall be refunded.

The Committee's decision shall be notified to the owner of the new plant variety certificate; it shall be entered in the National Register of New Plant Variety Certificates and published in the Official Bulletin of the Committee for the Protection of New Plant Varieties.



Article R623-35

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

If the owner of the new plant variety certificate has lodged an appeal before the Court of Appeal of Paris against the decision taken by the Committee under Article L. 623-23, this fact shall be entered ex officio in the National Register of Plant Variety Certificates and the effects of forfeiture shall be suspended until the decision of the Court has become final. The decision of the Court of Appeal of Paris shall be entered in the National Register of New Plant Variety Certificates. It shall be accompanied, where applicable, by mention of the fact that the owner of the New Plant Certificate has lodged an appeal with the Cour de Cassation. In the latter case, the decision of the Cour de Cassation shall be entered in the Register under the same conditions.

Sub-section 5: Surrender - Forfeiture

Article R623-36

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

A new plant variety certificate may be surrendered in writing. Such surrender shall be made to the Committee by the certificate owner or by an agent invested with special powers. If the certificate belongs to several persons, it may only be surrendered at the request of all the joint owners.

Where real property rights, deriving from a pledge or license, have been entered in the National Register of New Plant Variety Certificates, the surrender shall be admissible only if it is accompanied by the consent of the owners of such rights.

The surrender shall be recorded after payment of a fee for cancellation from the National Register of New Plant Variety Certificates. It shall be effective as from the date of such recording.

Article R623-37

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The breeder who is liable to forfeiture of his rights under (1) and (2) of the first paragraph of Article L. 623-23 shall be formally requested to put an end to the situation in a notification addressed to him by the Committee for the Protection of New Plant Varieties. If, on expiration of a period of two months from receipt of the notification, the formal request has not been complied with, the Committee shall declare the breeder's rights to be forfeited



The decision of the Committee shall be notified to the owner of the new plant variety certificate. It shall be entered in the National Register of New Plant Variety Certificates and published in the Official Bulletin of the Committee for the Protection of New Plant Varieties.

Sub-Section 6: National Registers

Article R623-38

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The Committee for the Protection of New Plant Varieties shall keep a Register of Applications for New Plant Variety Certificates and a National Register of New Plant Variety Certificates.

Article R623-39

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Applications for new plant variety certificates shall be entered in chronological order in the Register of Applications as soon as such applications have been filed.

The entry relating to each application shall, in particular, comprise:

- the provisional registration number;
 - the date filed;
 - the genus or species to which the variety belongs;
 - the name and address of the breeder and, where applicable, of his agent or successor in title where the breeder is not the applicant;
 - the denomination proposed or, failing this, the breeder's reference, and, where applicable, the denomination used to designate the variety in other States of the Union;
 - the claim to priority, where made;
 - mention of the observations referred to in Articles R. 623-17 to R. 623-26 above;
 - the date of issue of the new plant variety certificate, with the number of the entry in the National Register of New Plant Variety Certificates or mention of a final decision of rejection.
- The description of the variety made by the applicant and that of the breeding process shall appear in an annex to the Register, subject to the provisions of Article R. 623-44 below.

Article R623-40

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

New plant variety certificates shall be entered in the National Register of New Plant Variety Certificates in the order of their issue.



The entry shall comprise:

- the serial number under which the certificate was issued;
- the genus or species to which the variety belongs;
- the denomination and where applicable, any other denomination already used to designate the variety in other States of the Union:
 - a botanical description;
- the name and address of the owner of the new plant variety certificate and the name and address of the breeder if he is not the owner of the new plant variety certificate;
 - where relevant, the claim to priority;
- the dates on which protection begins and expires and, where applicable, premature surrender or the decision declaring forfeiture of the owner's rights;

The entry shall be supplemented, where applicable, by mention of any judicial decisions as to ownership of the rights.

The entry shall be further supplemented by mention of any instruments concerning the transfer of ownership of the breeder's rights, the assignment or the grant of a right of exploitation, any ex officio license and any other instrument for the transfer or modification of the rights deriving from a new plant variety certificate. These additional entries shall be made subject to payment of fees.

Article R623-41

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The supplementary entries relating to judicial decisions shall be made at the request of the Registrar of the court which rendered the decision, and other entries at the request of any interested party, on presentation of one of the originals of the instrument if it is a private agreement, or of a copy if it is authentic, or of a document evidencing the transfer in the case of transfer on death.

Article R623-42

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Any person shall be issued, on request and against payment of the prescribed fee, with copies of supplementary entries in the National Register of New Plant Variety Certificates, or with certificates stating that no entries exist.

Sub-section 7: Applications for new Plant Variety Certificates with National Defence Implications

Article R623-43



(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Specially authorized agents of the Minister responsible for National Defence, whose names and capacities shall have been brought to the knowledge of the Minister of Agriculture by the Minister responsible for National Defence, shall take cognizance of the applications filed for new plant variety certificates at the headquarters of the Committee for the Protection of New Plant Varieties.

The applications shall be presented to the agents within fifteen days from the date of their receipt by the Committee for the Protection of New Plant Varieties.

When so requested by the agents of the Minister responsible for National Defence, the Committee for the Protection of New Plant Varieties shall, if it has not already done so, invite the breeder or his successor in title to provide in as short a time as is compatible with the mode of reproduction or vegetative propagation of the variety, the material referred to in Article R. 623-5 (3) above and communicate it on receipt to the agents of the Minister responsible for National Defence.

Article R623-44

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

With respect to applications for new plant variety certificates relating to varieties belonging to the species included in the list fixed by order issued under Article L. 623-9, the procedures provided for under Articles R. 623-16 to R. 623-30 may not, except where special authorization under Article L. 623-9 has been given, be initiated during the period in which the prohibitions specified in the aforementioned Article are in force. Neither may they be initiated during the period for which the prohibitions have been extended under Article L. 623-10.

During the period of those prohibitions, the annexing to the Register of Applications for New Plant Variety Certificates, provided for by Article R. 623-39 above, of the description of the variety made by the applicant and of the breeding process shall also be suspended.

Article R623-45

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The request for authorization to disclose and freely use a new plant variety belonging to one of the species referred to in the preceding Article before the end of the period laid down in Article L. 623-9, shall be submitted to the Committee for the Protection of New Plant Varieties; it may be submitted as soon as the application for a certificate has been filed. Authorization shall be notified to the applicant by the Minister of Agriculture after consulting with the Minister responsible for National Defence.



In the absence of such authorization, a request for special authorization to perform specific acts of exploitation may, at any time, be submitted directly by the owner of the application for a certificate to the Minister responsible for National Defence. If he grants the authorization requested, the latter shall specify the conditions to which such acts shall be subject.

Where the special authorization concerns the assignment of the application for a certificate or the granting of an exploitation license, the Minister responsible for National Defence shall send a copy of his decision to the Minister of Agriculture.

Article R623-46

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The demand sent to the Minister of Agriculture by the Minister responsible for National Defence for the extension of the prohibitions on disclosure and free use of a new plant variety which is the subject matter of an application for a certificate, must reach the Committee for the Protection of New Plant Varieties not later than fifteen days before the end of the five-month period provided for in Article L. 623-9.

Any demand for the renewal of an extension must arrive under the same conditions not later than fifteen days before the end of the current period of one year.

The extension of the prohibitions on disclosure and free use shall be declared by order of the Minister of Agriculture and notified to the applicant before the end of the current period of prohibition.

Special authorizations to carry out specific acts of exploitation may be granted under the conditions laid down in the second and third paragraphs of Article R. 623-45.

The Minister responsible for National Defence may at any time inform the Minister of Agriculture of the lifting of prohibitions extended under Article L. 623-10. This measure shall be the subject of an order of the Minister of Agriculture, which shall be notified to the owner of the application for a certificate.

Article R623-47

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The provisions of Articles R. 612-29, R. 612-30, R. 612-32 and R. 613-42 shall apply to requests submitted and proceedings instituted under Articles L. 623-10 and L. 623-11.

Sub-section 8: Miscellaneous Provisions

Article R623-48

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)



The notifications provided for in this section and in Article L. 623-18 shall be made by registered letter with a request for notice of receipt.

Article R623-49

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Any notification shall be deemed to be in order if it is served on the last owner of the application for a new plant variety certificate, or of the new plant variety certificate, as appearing in the Register of Applications for New Plant Variety Certificates or in the National Register of New Plant Variety Certificates.

If the owner is domiciled abroad, notification shall be made to the last agent at the last address for service communicated to the Committee for the Protection of New Plant Varieties.

Article R623-50

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

All periods prescribed by this section shall be in whole days. Neither the day of the act or decision which causes the period to run nor the last day shall be counted. Any period which normally would expire on a Saturday, Sunday or public holiday shall be extended to the next working day.

Article R623-51

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The detailed description, with or without effective seizure, of the plants, parts of plants, or any elements of reproduction or vegetative propagation of the variety alleged to constitute infringement, as provided for in Article L. 623-27, shall be ordered by the president of the district court or, in overseas territories, of the court of the first instance within whose jurisdiction the operations are to be carried out.

The order shall be issued on request and on presentation of either the new plant variety certificate or, in the case provided for in Article L. 623-26, of a certified copy of the application for a new plant variety certificate.

If the request is made by the holder of an exclusive right of exploitation or of an ex officio license under Articles L. 623-17 and L. 623-20, the applicant must provide proof of inaction on the part of the owner of the new plant variety certificate after a summons to take action.

Article R623-52



(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Where effective seizure of goods is ordered, the judge may require security to be deposited by the claimant before the seizure is effected. Under the pain of invalidity and of damages against the bailiff, the latter must, before effecting seizure, serve a copy of the order and, where applicable, of the document certifying the deposit of security on the persons having plants, parts of plants or elements of reproduction or vegetative propagation of the respective variety in their possession. A copy of the report on the seizure shall also be given to such persons.

Article R623-53

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

The period referred to in the second paragraph of Article L. 623-27 for petitioning the court shall be fifteen days from the date of seizure or description.

Article R623-54

(inserted by Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

Orders issued by the Minister of Agriculture after consulting the Committee for the Protection of New Plant Varieties shall determine as and when necessary the conditions for the application of this Section.

Section 2: Scope of application of new plant variety certificates, duration and scope of the Breeder's Right

Article R623-55

(Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

(Decree No. 95-1407 of 28 December 1995, Art. 1, Official Journal of 4 January, 1996)

1. New plant variety certificates may be issued, under the conditions provided for by Articles L. 623-1 to L. 623-35 and Articles R. 623-1 to R. 623-54, for any variety belonging to a species of the plant kingdom.

Any foreigner who is a national of a State party to the International Convention for the Protection of New Varieties of Plants of 2 December, 1961, amended by the supplementary Act of 10 November, 1972, or who has his domicile, registered office or establishment in one of those States may obtain a new plant certificate for varieties belonging to the genera or species subject to the same protection by that State and



mentioned in the list appended to that Convention or in a supplementary list drawn up for the implementation of the provisions of that Convention.

Any foreigner who is a national of a State party to the International Convention for the Protection of New Varieties of Plants as defined in the revised text of 23 October, 1978, or who has his domicile, registered office or establishment in one of those States may obtain a new plant certificate under the same conditions as French nationals.

2. Foreigners who are not nationals of one of the States referred to under (1) above or who do not have their domicile, registered office or establishment therein may obtain new plant variety certificates provided that French nationals are accorded reciprocal protection by the State of which the foreigner is a national or in which he has his domicile, registered office or establishment.

Orders of the Minister of Foreign Affairs and of the Minister of Agriculture issued on the proposal of the Committee for the Protection of New Plant Varieties, shall fix the list of States whose legislation satisfies the condition of reciprocity. Such orders may include a restrictive list of the plant species for which the condition of reciprocity is satisfied.

Article R623-56

(Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

(Decree No. 95-1407 of 28 December, 1995, Art. 1, Official Journal of 4 January, 1996)

The term of protection shall be twenty years.

For forest, fruit or ornamental trees, for vine and also for perennial forage gramina and legumes, potatoes and inbred lines used for the production of hybrid varieties, the term of protection shall be fixed at twenty-five years.

Article R623-57

(Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

(Decree No. 95-1407 of 28 December, 1995, Art. 1, Official Journal of 4 January, 1996)

The breeder's right shall relate to all the elements of reproduction or vegetative propagation of the variety considered as well as to the whole plant or part of the plant of that variety.

Article R623-58



(Decree No. 95-385 of 10 April, 1995, Official Journal of 13 April, 1995)

(Decree No. 95-1407 of 28 December, 1995, Art. 1, Official Journal of 4 January, 1996)

Any person who desires at the time of any act of assignment, concession or commercialization of the varieties referred to in the foregoing Articles, to avail himself of the possibility offered under Article L. 623-15 of adding a trademark to the variety denomination, whether he is the owner of the mark or other lawful user thereof, shall take the necessary precautions, especially in correspondence, in advertisements, in the preparation of trade catalogues, and on packaging or labels, to ensure that this denomination is sufficiently visible in its context so as to prevent any likelihood of confusion in the mind of the purchaser as to the variety's identity.

Chapter IV: International Transfer of Technology

Article R624-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any contract or rider to a contract for the purpose of the acquisition by a natural or legal person having his place of residence or of business in France from a natural or physical person having his place of residence or business abroad of industrial property rights and of any intellectual element comprised in a scientific or technical act of any nature, particularly know-how or engineering, shall be subject to declaration with the National Institute of Industrial Property.

Any contract or rider to a contract having for its purpose the transfer by a natural or legal person having his place of residence or business in France to a natural or legal person having his place of residence or business abroad of industrial property rights and of all intellectual elements comprised in scientific or technical assistance of any nature, particularly know-how and engineering, shall be subject to declaration with the National Institute of Industrial Property.

Article R624-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

It shall be obligatory for the declaration referred to in Article R. 624-1 to be made by the contractor whose place of residence or of business is located in France one month at the latest after conclusion of the contract.

Article R624-3



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

For each of the contracts referred to in Article R. 624-1 and for each of those concluded before 1 June 1970 and having the subject matter referred to in Article R. 624-1, the contractor whose place of residence or of business is located in France shall obligatorily draw up at the beginning of each year:

- a statement of the amounts of the financial transfers sent abroad or received from abroad during the preceding year in implementation of the contract;
- and a statement of the amounts of the contributions or exchanges relating to rights or know-how effected as compensation and comprising no financial transfer by banking (or postal) means abroad or from abroad, the amounts being, where appropriate, assessed by the declarer.

Article R624-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The annual statements referred to in Article R. 624-3 shall be addressed by the contractor whose place of residence or business is located in France to the National Institute of Industrial Property before 31 March of each year.

Article R624-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The information and documents furnished to the administration pursuant to this Chapter shall be confidential with regard to third parties.

Article R624-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

For the application of this Chapter, the natural or legal persons whose place of residence or of business is located in the French overseas territories or in the Principality of Monaco shall be assimilated to natural or legal persons whose place of residence or business is located in France.

Article R624-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



A joint order of the Minister for Economy and Finance and the Minister responsible for industrial property shall lay down the implementing instructions under this Chapter.
Sole chapter

Article R631-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In accordance with Article R. 312-2 of the Judiciary Code, the seat and jurisdiction of the first instance courts required to hear proceedings relating to patents for invention, utility certificates, supplementary protection certificates, topographies of semiconductor products and new plant varieties pursuant to Articles L. 611-2, L. 615-17, L. 622-7 and L. 623-31 of the Intellectual Property Code shall be laid down in accordance with Table IV annexed to the Judiciary Code, reproduced hereinafter:

Seat and Jurisdiction of the Courts Competent to Hear Proceedings Relating to Patents, Utility Certificates, Supplementary Protection Certificates, Topographies of Semiconductor Products and Plant Varieties

COURTS TERRITORIAL COMPETENCE First Instance Extending to the Departments

Included in the Jurisdiction of the Appeal Courts of:

Marseille Aix: Aix-en-Provence, Bastia, Nîmes.

Bordeaux: Bordeaux: Agen, Bordeaux, Poitiers.

Strasbourg: Colmar: Colmar, Metz.

Lille: Douai: Amiens, Douai.

Limoges: Limoges: Bourges, Limoges, Riom.

Lyon: Lyon: Chambéry, Lyon, Grenoble.

Nancy: Nancy: Besançon, Dijon, Nancy.

Paris: Paris: Orléans, Paris, Reims, Rouen, Versailles, Basse-Terre, Fort-de-France, Saint-Denis-de-la-Réunion, Nouméa, Papeete, Mamoudzou et Saint-Pierre-et-Miquelon.

Rennes: Rennes: Angers, Caen, Rennes.

Toulouse: Toulouse: Pau, Montpellier, Toulouse.

Chapter II: Acquisition of Rights in Marks

Article R712-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Applications for registrations of marks shall be filed either with the National Institute of Industrial Property or with the registrar of the commercial courts or of the first instance courts acting in their stead within the jurisdiction of which the applicant has his establishment or place of residence. Receipt of the application shall be confirmed.



Filing may be effected by registered mail with notification of receipt addressed to the National Institute of Industrial Property or by a message by any means of tele-transmission stipulated by a decision of the Director General. In such case, the filing date shall be that of receipt at the Institute. This Article shall apply to the renewal declarations referred to in Article R. 712-24.

Article R712-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 6 Official Journal of 24 September 1997)

(Decree No. 2002-215 of 18 February 2002 art. 8 Official Journal of 20 February 2002)

The filing may be effected personally by the applicant or by a representative having his place of residence, or business or his establishment in a member State of the European Community or in a State party to the agreement on the European Economic Area.

Subject to the exceptions referred to in Articles L. 422-4 and L. 422-5, the representative appointed for the filing of an application for registration of a mark and any subsequent act relating to the registration procedure, with the exception of the simple payment of fees and of renewal declarations, shall be required to have the capacity of industrial property attorney.

Persons not having their place of residence or of business in a member State of the European Community or in a State party to the agreement on the European Economic Area shall be required, within a period of time afforded them by the Institute, to appoint a representative who complies with the conditions set out in the preceding paragraph.

In the event of more than one applicant, a joint representative complying with the same conditions shall be appointed.

Except if he has the capacity of industrial property attorney, the representative shall be required to attach powers extending, subject to the provisions of Articles R. 712-21 and R. 714-1 and unless otherwise agreed, to all acts and to the receipt of all notifications referred to in this Title. Legalization shall not be required for the powers.

Article R712-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The filing shall comprise:

- 1°. The application for registration of a mark drawn up in the manner set out in the order referred to in Article R. 712-26 and specifying, in particular:
 - a) The identity of the applicant;



- b) An example of the mark, consisting in its graphic representation; the example may be supplemented by a short description; the latter shall be compulsory in those cases specified in the above mentioned order;
- c) A list of the goods or services to which it applies together with a list of the corresponding classes;
- d) Where appropriate, a statement that a priority right deriving from a preceding foreign deposit is claimed or that a guarantee certificate has been issued in accordance with the Act of 13 April 1908.
 - 2°. The following subsidiary documents:
 - a) Proof of payment of the prescribed fees;
 - b) If a representative is appointed, the latter's powers;
 - c) If the distinctive nature of a sign filed as a mark has been acquired by use, proof of such use;
 - d) In the case of a collective certification mark, the regulations setting out the conditions to which use of the mark is subject and proof of the corresponding approval;
 - (e) if the depositor is a foreigner and has neither place of residence nor of business on the national territory, and subject to the international conventions, proof that he has made a regular deposit of the mark in the country of his place of residence or of business and that such country affords reciprocity of protection to French marks.
One deposit may relate to one mark only.

Article R712-4.

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The claim to a priority right, when making a deposit in France, deriving from a preceding deposit abroad shall imply the obligation to submit to the National Institute of Industrial Property within three months of the deposit in France an official copy of the prior deposit and, if appropriate, proof of the right to claim the priority.

Where this obligation is not complied with, the priority shall be deemed not to have been claimed.

Article R712-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

On receipt of the filing, the following shall be entered on the application for registration: the date, the place and the serial number of the filing or the national number referred to in Article R. 712-6.

A receipt for filing shall be handed to the applicant.

Where the filing is made with the registrar of the commercial court or of the first instance court acting in its stead, the filing documents and the amount of the fees shall be transmitted without delay to the National Institute of Industrial Property by the registrar.



Article R712-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

On receipt at the National Institute of Industrial Property, the filing shall be given a national number. Where it has not been possible to mention the number on the filing receipt, the number shall be notified to the applicant.

All correspondence and any filing of subsequent documents not referring to the national number of the application for registration or which, where appropriate, is not accompanied by proof of payment of the prescribed fee shall be declared inadmissible.

Article R712-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any filing which does not comprise at least one copy of the application for registration, even where irregular in form, containing the particulars referred to in Article R. 712-3(1)(a), (b) and (c) and not accompanied by proof of payment of the filing fee shall be declared inadmissible.

Article R712-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Filings recognized as admissible shall be published in the Official Bulletin of Industrial Property unless it emerges that their presentation does not satisfy the technical requirements necessary for reproduction or that their publication would be such as to be prejudicial to public policy or morality.

Publication in the Official Bulletin shall be effected within six weeks following receipt of the filing at the National Institute of Industrial Property. Publication shall contain a notice of the faculty available to any concerned person to formulate observations within a period of two months and to the persons referred to in Article L. 712-4 to enter opposition to registration within that same period.

Article R712-9

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Observations formulated under Article L. 712-3 shall be communicated without delay to the applicant by the Institute or shall be dismissed without effect if it is ascertained that they have been submitted after the expiry of the prescribed period of time or that their



subject matter is obviously foreign to the legislative provisions in force. The author of the observations shall be informed thereof.

Article R712-10

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Each filing shall be checked by the Institute:

- 1°. To ascertain that the application for registration and the documents annexed thereto comply with the requirements of the legislation and the regulations in force.
- 2°. That the filed sign is capable of constituting a mark pursuant to Articles L. 711-1 and L. 711-2 or may be adopted as a mark under Article L. 711-3.

Article R712-11

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

- 1°. If the application does not comply with the provisions of Article R. 712-10, a reasoned notification shall be made to the applicant.

He shall be given a period of time in order to regularize the filing or to contest the objections of the Institute. Failing regularization or observation enabling the objection to be withdrawn, the application shall be refused.

The notification may be accompanied by a regularization proposal. The proposal shall be deemed accepted if the applicant does not contest it within the period of time afforded him.

- 2°. In the case referred to in Article R. 712-10(2), the notification of irregularity may not be issued more than four months after the date of receipt of the application at the Institute.

- 3°. No regularization made in compliance with the provisions of this Article may have the effect of extending the scope of the filing.

Article R712-12

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The reinstatement referred to in Article L. 712-10 shall apply to the time limits laid down in this Title, with the exception of those referred to in Articles R. 712-16, R. 717-2, R. 717-5 and R. 717-8.

The request for reinstatement shall be submitted to the Director General of the Institute.

Requests shall be declared inadmissible if:

- 1°. They are not preceded by the accomplishment of the omitted formality;



- 2°. They are presented more than two months after termination of the cause of failure to comply;
- 3°. If they concern a time limit that has lapsed more than six months previous;
- 4°. If they are not accompanied by proof of payment of the prescribed fee.

Article R712-13

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 97-863 of 17 September 1997 art. 7 Official Journal of 24 September 1997)

Opposition to the registration entered by the owner of an earlier mark or the beneficiary of an exclusive right of exploitation in accordance with Article L. 712-4 may be submitted by the person concerned acting in person or through a person who satisfies the conditions laid down in Article R. 712-2.

Article R712-14

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Opposition shall be submitted in writing in the manner stipulated by the order referred to in Article R. 712-26.

The opposition shall specify:

- 1°. The identity of the opponent, together with the particulars suitable to establish the existence, nature, origin and scope of his rights;
- 2°. The references of the application for registration against which the opposition is entered together with a statement of the goods or services concerned by the opposition;
- 3°. The statement of the grounds on which the opposition rests;
- 4°. Proof of payment of the prescribed fee;
- 5°. Where appropriate, except where he has the capacity of industrial property attorney, the powers of the representative, that may be addressed to the Institute within a maximum period of one month.

Article R712-15

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any opposition entered outside the time limits, submitted by a person not entitled thereto, or not in compliance with the conditions set out in Articles R. 712-13 and R. 712-14 and the order referred to in Article R. 712-26 shall be declared inadmissible.

Article R712-16



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Subject to the cases of suspension referred to in the fourth paragraph of Article L. 712-4 or closure of the procedure under Article R. 712-18, the opposition shall be examined in accordance with the following procedure:

1°. The opposition shall be notified without delay to the holder of the application for registration. The latter shall be afforded a period of time to submit counter observations and, where appropriate, appoint a representative who satisfies the conditions laid down in Article R. 712-13. The period of time afforded may not be less than two months;

2°. Failing counter observations or, where appropriate, the regular appointment of a representative within the prescribed time limit, a decision shall be taken on the opposition.

If such is not the case, a draft decision shall be drawn up on the basis of the opposition and the counter observations. The draft shall be notified to the parties and they shall be given a period of time in which to contest if necessary the well-foundedness of the proposal;

3°. If not contested, such draft shall constitute a decision.

If such is not the case, a decision shall be taken on the opposition based on the most recent observations and, if one of the parties so requests, after the parties have been permitted to submit oral observations.

The Institute shall comply with the principle of hearing the parties. Any observation submitted to it by one of the parties shall be notified to the other party.

Article R712-17

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The holder of the application for registration may, in his first counter observations, invite the opponent to produce documents that prove that he has not lost his rights for failure to work.

In such case, the Institute shall afford a time limit to the opponent for producing such documents.

Article R712-18

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The opposition procedure shall be closed:

1°. If the opponent loses his capacity to take action or has not furnished within the prescribed time limit any document capable of proving that he has not lost his rights;

2°. If the opposition becomes inapplicable as a result either of agreement between the parties or the withdrawal or refusal of the application for registration against which the opposition had been entered;

3°. If the effects of the earlier mark have terminated.



Article R712-19

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The provisions of Articles R. 712-13 to R. 712-18 shall be applied progressively with regard to the International Classification of goods and services for the purposes of the registration of marks established by the Nice Agreement of 15 June 1957.

During a period of five years beginning on 28 December 1991 opposition may be entered only against those applications for registration that concern goods or services belonging to at least one of the classes designated by order of the Minister responsible for industrial property in accordance with the following table.

Table for the Progressive Application of the Opposition Procedure	
APPLICATIONS	FINAL DATE FOR REGISTRATION for the Concerning Goods or Services Implementation Belonging to at Least of the Procedure one of the Following Classes
2, 20, 27:	December 28, 1991
6, 8, 13, 15, 17, 19, 21:	July 1, 1993
4, 7, 11, 12, 14, 18, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34:	July 1, 1993
1, 3, 5, 9, 10, 16, 35, 36, 37, 38, 39, 40, 41, 42:	December 28, 1996

Article R712-20

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Up to the moment the technical preparation for registration referred to in Article R. 712-22 has begun, the applicant shall be entitled, on a reasoned request, to correct clerical errors discovered in the documents filed.

Article R712-21

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The application for registration may be withdrawn up to the time the technical preparation for registration has begun. Withdrawal may be limited to a part of the application. It shall be effected by means of a written declaration addressed or handed to the Institute.

A declaration of withdrawal may concern one mark only. It shall be formulated by the applicant or by his representative who, unless he has the capacity of industrial property attorney, shall be required to attach special powers.

It shall state whether or not exploitation rights have been granted or pledges have been entered into. If such is the case, it shall be accompanied by the written consent of the beneficiary of such right or of the pledgee.



If the application for registration has been formulated by more than one person, it may be withdrawn only if requested by all such persons.

Withdrawal shall not prevent the publication referred to in the first paragraph of Article R. 712-8.

Article R712-22

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The duration of the technical preparation referred to in Articles R. 712-20 and R. 712-21 shall be laid down by a decision of the Director General of the Institute.

Article R712-23

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The mark shall be registered unless the application has been refused or withdrawn.

A certificate shall be sent to the applicant.

Registration shall be published in the Official Bulletin of Industrial Property.

Article R712-24

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The registration may be renewed for a further ten-year period by a declaration of the owner of the mark drawn up in accordance with the order referred to in Article R. 712-26. It may be specified that renewal shall be valid only for certain goods or services designated in the registration instrument.

Subject to inadmissibility, the declaration shall:

- 1°. Be submitted during the final six months of validity of the registration by the person concerned or his representative who shall be required to attach powers unless he has the capacity of industrial property attorney;
- 2°. Include identification of the owner of the mark and of the renewed mark;
- 3°. Be accompanied by proof of payment of the prescribed fee;
- 4°. If inadmissibility is determined for failure to pay the prescribed fee, the person making the declaration shall have a period of two months as from the date of receipt of the notification to pay such fee subject to a prescribed surcharge.

In the event of non-compliance of the declaration, the procedure referred to in Article R. 712-11 (1) shall be applied.

Article R712-25

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



Any new filing concerning the modification of a sign or an extension to the list of goods and services of a registered mark may be accompanied by an anticipated declaration of renewal for that mark. The new period of protection shall begin as from the declaration of renewal.

Subsequent renewals of the renewed mark and of the new filing shall be made by means of a single declaration.

Article R712-26

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The conditions for setting out the application and the contents of the file shall be specified by an order of the Minister responsible for industrial property, in particular with regard to:

- 1°. The application for registration referred to in Article R. 712-3;
- 2°. The opposition referred to in Article R. 712-14;
- 3°. The withdrawal declaration referred to in Article R. 712-21 or the renunciation declaration referred to in Article R. 714-1;
- 4°. The renewal declaration referred to in Articles R. 712-24 and R. 712-25;
- 5°. The request for entry in the National Trademark Register referred to in Articles R. 714-4 and R. 714-6;
- 6°. The applications for international trademark registration and subsequent entry in the international register submitted for the approval of the Institute.

Chapter IV: Transfer and Loss of Rights in Marks

Article R714-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The owner of a registered mark may at any time renounce its effects. The Institute shall confirm the renunciation to him. The provisions of Article R. 712-21 shall apply to renunciation.

Article R714-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The National Register of Marks shall be kept by the National Institute of Industrial Property.

For each mark shall be shown therein:



1°. The identity of the applicant and the references of the filing, together with any subsequent acts affecting the existence or scope of the mark;

2°. Any acts modifying the ownership of the mark or enjoyment of the rights deriving therefrom; in the event of a claim to ownership, the corresponding assignation;

3°. Any changes of name, legal form or address together with any corrections of clerical errors relating to entries.

No entry shall be made in the Register until the filing has been published in accordance with Article R. 712-8.

Article R714-3

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The particulars referred to in Article R. 714-2, second paragraph (1), shall be entered at the initiative of the Institute or, in the case of a court decision for cancellation or lapse, at the request of the registrar or of one of the parties.

Article R714-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Acts that modify the ownership of a mark or enjoyment of the rights deriving therefrom, such as transfer, assignment of exploitation right, entering or assignment of a pledge or renunciation of such pledge, seizure, validation and withdrawal of seizure, shall be entered at the request of one of the parties to the act.

The request shall contain:

1°. A request for entry;

2°. One of the originals of the private deed setting out the change in ownership or enjoyment or a copy of such deed if authenticated;

3°. A reproduction of the above-mentioned deed if the applicant wishes the original or the authenticated copy to be returned to him, or an extract if he wishes to restrict the entry thereto;

4°. Proof of payment of the prescribed fee;

5°. Where appropriate, the powers of the representative unless he has the capacity of industrial property attorney.

Article.R714-5

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

By derogation from Article R. 714-4, second paragraph (2), the following may be submitted with the request:



1°. In the event of transfer mortis causa, any act establishing the transfer, at the request of the heirs or legatees;

2°. In the event of transfer following merger, hiving off or absorption, a copy certified by the registrar or the Director General of the Institute of the corresponding acts filed at annex to the Register of Commerce and Companies;

3°. Any document that establishes the change in ownership or in enjoyment of rights if the physical impossibility of producing the original or the copy can be proved.

Article R714-6

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Changes in the name and address and corrections to clerical errors shall be entered at the request of the holder of the application for registration or the owner of the mark. However, where such changes and corrections concern an act that has been previously entered, the request may be submitted by any party to the act.

The request shall contain:

- 1°. A request for entry;
- 2°. Proof of the change that has occurred or the existence of the clerical error to be corrected;
- 3°. Proof of payment of the prescribed fee;
- 4°. Where appropriate, the powers of the representative unless he has the capacity of industrial property attorney.

Article R714-7

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

In the event of non-compliance of a request for entry, the procedure referred to in Article R. 712-11 (1) shall be applied.

The same procedure shall apply to the justifications referred to in Articles R. 714-5(3), and R. 714-6, second paragraph (2).

Article R714-8

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Any entry made in the National Register of Marks shall be mentioned in the Official Bulletin of Industrial Property.

Any concerned person may obtain from the Institute:

- 1°. A certificate of identity containing a copy of the mark, the particulars of filing and registration and, where appropriate, any limitations to the lists of goods and services resulting from a withdrawal, renunciation or court decision;



- 2°. A copy of the entries in the National Register of Marks;
- 3°. A certificate attesting that there are no entries.

Chapter V Collective Marks

Article R715-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The mention "collective mark" entered in the registration of a mark filed before 28 December 1991 shall be cancelled at the request of its owner unless it is a collective certification mark.

Cancellation shall be entered in the National Register of Marks.

Chapter VI Disputes

Article R716-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The request for withholding of goods by the customs administration referred to in Article L. 616-8 shall contain:

- 1°. The surname and forenames or business designation of the requester, his place of residence or of business;
- 2°. Where appropriate, the name and address of the representative and proof of his appointment;
- 3°. The capacity of the requester with regard to the rights he asserts;
- 4°. The designation and registration number of the mark concerned;
- 5°. A description of the allegedly infringing goods for which withholding is requested.

The request referred to in the preceding paragraph may be made prior to the entry of the allegedly infringing goods onto French territory. In such case, it shall be valid for one year and may be renewed.

The conditions for presenting the request shall be specified by an order of the Minister responsible for the budget.

Section 1 : International Marks

Article R717-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)



(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)

Articles R. 712-3(2(d)), R. 712-9 to R. 712-11, R. 712-13 to R. 712-18, R. 714-2 and R. 714-4 to R. 714-8 shall apply to international registrations of marks extending to France under the Madrid Agreement of April 14, 1891 within the limits and provisions of this Chapter.

Article R717-2

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)

If the international registration relates to a collective certification mark, the regulations for use referred to in Article R. 712-3(2(d)), accompanied where appropriate by a translation into French, shall be furnished within a period of six months as from entry of the mark in the International Register.

Where this requirement is not complied with, the international registration shall be deemed not to relate in France to a collective certification mark.

Article R717-3

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)

The Institute shall keep for public inspection the bulletin "Les Marques internationales" published by the World Intellectual Property Organization.

The two-month period within which observations may be submitted by third parties under Article L. 712-3 shall begin on the first day of the month following receipt of the bulletin Les Marques internationales at the National Institute of Industrial Property.

Article R717-4

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)



The examination referred to in Article R. 712-10 shall be restricted to verifying the suitability of the sign to constitute a mark or to be adopted as a mark.

The four-month period within which notifications of irregularity are to be issued in accordance with Article R. 712-11(2) shall begin with the notification to the National Institute of Industrial Property of the extension to France of the international registration.

Irregularities shall be notified to the holder of the international registration through the International Bureau of the World Intellectual Property Organization.

Article R717-5

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)

The time limit for entering an opposition in accordance with Article L. 712-4 shall begin on the first day of the month following receipt of the bulletin "Les Marques internationales" at the National Institute of Industrial Property.

Opposition shall be notified to the holder of the international registration by the International Bureau of the World Intellectual Property Organization.

The holder of the international registration shall be deemed to have received the notification of opposition within 15 days as from the day of issue of the notification by the National Institute of Industrial Property.

Article R717-6

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)

Any decision to refuse shall be given in the form of a refusal of protection in France for the international registration.

It shall be notified to the holder of the international registration by the International Bureau of the World Intellectual Property Organization.

Article R717-7

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)



Acts relating to international registrations that have effect in France may be entered in the National Register of Marks once they may not be entered in the International Register.

Article R717-8

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 9 I and II Official Journal of 20 February 2002)

Any request for international registration or an entry subsequent of such registration submitted under the Madrid Agreement of 14 April 1891 for the approval of the National Institute of Industrial Property and transmission to the International Bureau shall be presented in the manner laid down in the order referred to in Article R. 712-26.

The provisions of Article R. 712-11 shall apply to any request that does not meet the conditions referred to in the preceding paragraph. The date of application to the National Institute of Industrial Property shall be the date on which the request has been regularized, where appropriate.

Section 2 : Community Marks

Article R717-9

(inserted by Decree No. 2002-215 of 18 February 2002 art. 9 I and III Official Journal of 20 February 2002)

The Community mark or application for a Community mark shall be converted into an application for a French mark as soon as the National Institute for Industrial property has received the application for conversion addressed to the Office of Harmonisation in the Internal Market. A national number will be allocated.

1° The applicant will be given a deadline for providing:

a) the application for registration as provided for in Article R. 712-3 (1);

b) proof of payment of royalties under Article R. 712-3 (2, a);

c) translation into French, where applicable, of the application for conversion and the attached documents.

If the applicant is not domiciled, or does not have its registered office, in and EU Member State or in a State that has signed the European Economic Area agreement, they must, by the same deadline, appoint a representative who satisfies the conditions of Article R. 712-2 and supply the name and address of the latter to the National Institute for Industrial Property;

2. The request resulting from the application for conversion shall be rejected if the documents referred to in point 1 have not been produced by the stipulated deadline;



3. When the request resulting from the application for transformation has been recognised as admissible, it will be published in the Official Journal of Industrial Property within the six weeks following acceptance by the National Institute for Industrial Property of the documents referred to in point 1. Subject to the provisions of paragraph 3 of Article L. 717-5, reference is made to the right of any person concerned to express their comments within a period of two months and to the right of any persons referred to in Article L. 712-4 to oppose the registration within the same period of time.

Article R717-10

(inserted by Decree No. 2002-215 of 18 February 2002 art. 9 I and III Official Journal of 20 February 2002)

The request for a national mark resulting from the application for conversion shall be examined and registered or rejected under the terms of Articles R. 712-9 to R. 712-23.

Sole Section

Article R718-1

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Subject to the provisions of Article R. 712-16(1), the time limits afforded by the National Institute of Industrial Property shall be no less than one month and no more than four months.

Article R718-2

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

Where a time limit is expressed in days, the day of the act, event, decision or notification that initiates the time limit shall not count.

Where a time limit is expressed in months or in years, the time limit shall expire on the day of the last month or of the last year that bears the same number as the day of the act, the event, the decision or the notification that has initiated the time limit. Failing an identical number, the time limit shall expire on the last day of the month.

Where a time limit is expressed in months and days, the months shall be counted first and then the days.

All time limits shall expire on the last day at midnight.

A time limit that would normally expire on a Saturday, Sunday, a public holiday or a non-working day shall be extended to the first working day thereafter.

Article R718-3



(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

A notification shall be deemed regular if made:

1. either to the last holder of the request for registration of the mark declared to the Institute or the last owner entered in the National Register of Marks;
2. or to the representative of the above mentioned holder or owner.

If the owner has his place of residence abroad, notification shall be deemed regular when made to the last representative he has appointed to the Institute.

Article R718-4

(inserted by Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

The notifications referred to in this Title shall be made by registered mail with notification of receipt.

Registered mail may be replaced by handing the letter to the recipient, against a receipt, at the premises of the Institute.

If the address of the recipient is not known, notification shall be made by publication of a notice in the Official Bulletin of Industrial Property.

Sole Chapter

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 2 Official Journal of 20 February 2002)

Article R811-1

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 10 I and II Official Journal of 20 February 2002)

The provisions of this Code shall apply to the overseas territories with the exception of:

1. Articles R. 421-1 to R. 421-12, R. 422-1 to R. 422-66, R. 423-1 and R. 423-2, R. 615-1 to R. 615-5;
2. Articles R. 512-2, R. 512-3, R. 512-13, R. 512-15, R. 513-1, R. 513-2, R. 612-2, R. 612-38, R. 613-46, R. 613-56, R. 613-58, R. 712-2, R. 712-13, R. 712-14, R. 712-21, R. 712-24, R. 714-4, R. 714-6 only in so far as they concern industrial property attorneys.

Article R811-2



(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 10 I and III Official Journal of 20 February 2002)

The provisions of this Code shall apply to the territorial entity of Mayotte.

Article R811-3

(Decree No. 95-385 of 10 April 1995 Official Journal of 13 April 1995)

(Decree No. 2002-215 of 18 February 2002 art. 10 I and III Official Journal of 20 February 2002)

For the implementation of this Code and of the provisions it applies to the overseas territories and the territorial entity of Mayotte, the words listed below shall be replaced respectively by the following words:

- “tribunal de grande instance” by “tribunal de première instance”;
- “juge d’instance” by “juge du tribunal de première instance”;
- “région” by “territoire” and, in the case of the territorial entity of Mayotte, by “collectivité territoriale”;
- “cour d’appel” by “tribunal supérieur d’appel” and “commissaire de police” by “officier de police judiciaire” with respect to the territorial entity of Mayotte;
- “tribunal de commerce” by “tribunal de première instance statuant en matière commerciale” with respect to the territorial entity of Mayotte and “tribunal mixte de commerce” with respect to the territories of New Caledonia, French Polynesia and Wallis and Futuna;
- “conseil de prud’hommes” by “tribunal du travail”.