

法規名稱：MEMORANDUM OF UNDERSTANDING BETWEEN THE TAIPEI MISSION IN KOREA AND THE KOREAN MISSION IN TAIPEI FOR THE MUTUAL COOPERATION IN THE FIELD OF DEPOSIT OF BIOLOGICAL MATERIALS FOR THE PURPOSE OF PATENT PROCEDURE

簽訂日期：民國 109 年 08 月 17 日

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The Taipei Mission in Korea and the Korean Mission in Taipei (hereinafter individually referred to as a “ Side ” , and jointly as the “ Sides ”);

Recognizing the importance of patent protection in promoting a sound national and global economy, encouraging economic investment and fostering technological innovation;

Taking into consideration the necessity of more efficient management of an ever-growing number of internationally filed patent applications which have arisen from the increase in demand for gaining patent protection for inventions facing economic globalization;

Striving to reduce the burden of applicants having to repeat the process of making a deposit of biological materials for the purpose of patent procedure; and

Desiring to promote inter-office cooperation and exercise greater leadership in worldwide cooperative efforts in the area of patent;

Confirm their understanding that the following will be carried out by respective relevant authorities:

1. This Memorandum of Understanding (hereinafter referred to as “ MOU ”)is to establish a cooperation framework in the field of mutual recognition of deposit of biological materials for the purpose of patent procedure between the

- Taiwan Intellectual Property Office (TIPO) and the Korean Intellectual Property Office (KIPO) (hereinafter individually referred to as an “ Office ” , and jointly as the “ Offices ”).
2. In the event where an applicant files a patent application with TIPO and deposits biological material in a depository located in Korea and designated by KIPO, such deposit shall be governed by the laws and regulations of Korea. However, persons qualified for requesting to be furnished with a sample and the grounds for requesting to be furnished with a sample shall be governed by the laws and regulations of Taiwan.
 3. In the event where an applicant files a patent application with KIPO and deposits biological material in a depository located in Taiwan and designated by TIPO, such deposit shall be governed by the laws and regulations of Taiwan. However, persons qualified for requesting to be furnished with a sample and the grounds for requesting to be furnished with a sample shall be governed by the laws and regulations of Korea.
 4. The depository located in Korea and designated by KIPO as referred to in Paragraph 2 shall mean either the Korean Collection for Type Cultures (KCTC) or the Korean Culture Center of Microorganisms (KCCM) or the Korean Cell Line Research Foundation (KCLRF) or the Korean Agricultural Culture Collection (KACC).
 5. The depository located in Taiwan and designated by TIPO as referred to in Paragraph 3 shall mean the Food Industry Research and Development Institute (FIRDI).
 6. The deposit of biological materials made for the purpose of patent procedure at a depository designated by one Office shall be recognized for the purpose of patent procedure by the other Office.
 7. The scope of the recognition referred to in Paragraph 6 shall include the fact and the date of the deposit as provided by

- the designated depositary and what is furnished as a sample is one of the deposited biological materials.
8. With respect to a deposit made pursuant to Paragraph 6, a copy of the certificate of the deposit issued by the designated depositary, the name of the designated depositary, the accession number, and a description of the characteristics of the biological material may be required by the other Office.
 9. The depositor may not withdraw the deposit after receiving the certificate of deposit issued by the designated depositary.
 10.
 - (1) Where a designated depositary of either Office cannot furnish samples of the deposited biological materials for any reason, including, (a) where such biological materials are no longer viable, or (b) where the furnishing of samples would require that they be sent abroad and the sending or the receipt of the samples abroad is prevented by export or import restrictions, that depositary will promptly notify the depositor of such inability, indicating the cause thereof, and the depositor can make a new deposit of the biological materials which were originally deposited.
 - (2) The new deposit will be made with the designated depositary with which the original deposit was made, provided, however, that: (a) it will be made with another designated depositary of either Office where the designated depositary of that Office with which the original deposit was made has ceased to have the status of a designated depositary, (b) it may be made with another designated depositary of either Office in the case referred to in subparagraph (1)(b).
 - (3) Any new deposit will be accompanied by a statement signed by the depositor alleging that the newly deposited biological material is the same as that originally deposited.
 - (4) With respect to subparagraphs (1) through (3) and (5), the new deposit will be treated as if it had been made on the

date on which the original deposit was made where all the preceding statements concerning the viability of the originally deposited biological material indicated that the biological material was viable and where the new deposit was made within three months after the date on which the depositor received the notification referred to in subparagraph (1).

- (5) Where subparagraph (2)(a) applies and the depositor does not receive the notification referred to in subparagraph (1) within six months after the date on which the termination referred to in subparagraph (2)(a) was published by the relevant Office, the three - month time limit referred to in subparagraph (4) will be counted from the date of the said publication.

11.

- (1) If any designated depositary temporarily or definitively discontinues the performance of any of the tasks it should perform, the designating Office shall adopt the following measures:

- (a) ensure that the original depositary promptly notifies thereof to all the depositors affected by the discontinuance of the performance of its functions; and
(b) promptly notify the other Office of the fact and the extent of the discontinuance in question and of the measures which have been taken by the said designating Office.

- (2) Where the depositor receives a certificate of the deposit from the receiving depositary stating the new accession number given to the original deposit, the Office with which a patent application was filed shall be notified of the new accession number by the depositor.

12. If any designated depositary refuses to accept the deposit of any of the kinds of biological materials which it should accept, the designating Office will promptly notify the other Office of the relevant facts and the measures which

- have been taken thereof.
13. The operation and management of a depository, which is designated by either TIPO or KIPO, shall comply relevant regulations.
 14. Where the request of a deposit of biological material has been filed prior to the implementation of this MOU and the relevant patent application for invention is filed with TIPO or KIPO after such implementation, this MOU may also apply thereof.
 15. This MOU will be carried out within the framework of the respective laws and regulations and subject to the availability of appropriated funds and personnel of TIPO and KIPO.
 16. The recognition referred to in Paragraph 6, i.e. the implementation of this MOU, will begin on September 1, 2020 after all the necessary arrangements are finalized.

This MOU may be amended by the mutual written consent of the Sides.

This MOU will come into effect on the date of the last signature by the Sides.

Signed in duplicate at Taipei on Aug. 17, 2020 and at Seoul on Aug. 7, 2020, in the English language.

For the Taipei Mission
in Korea

Diann-wen Tang
Representative

For the Korean Mission
in Taipei

Young-hoon Kang
Representative