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To Whom It May Concern:

Circular Letter No. 71 of Dr. Meir Noam, Registrar of
Patents, Designs and Trademarks
AMENDMENT

We would like to draw to your attention the amendment of the Circular Letter issued by the Registrar of Patents in order to facilitate the Examination Process. In essence, this Circular Letter reads as follows (translated roughly from Hebrew)

"In order to improve the Examination Process, the present Circular Letter is being published as follows:

1. *An Application regarding which the accumulated conditions detailed below are fulfilled, is seen as if the stipulations of Sections 4, 5 and 8 of the Israeli Patents Law 5727 - 1967 (hereinafter "the Law") are fulfilled in regard to same:*
 - a) *The Application entered the National Phase in Israel (hereinafter "the Israeli Application") or the Application was filed first in Israel and thereafter via the PCT Convention (i.e. the Israeli Application is not a National Phase of the PCT Application).*
 - b) *It was established in the International Examination Report that there is Novelty and an Inventive Step in the Invention being the subject matter of the Application and that the Application claims only one Invention.*
 - c) *The Claims in the Israeli Application are identical to those in the International Application which was examined at the Searching Authority or the International Examination Authority; However the Application may include fewer Claims than the International Application.*

- d) *The Applicant filed, if necessary, the translation of the International Application which was examined at the Searching Authority or the International Examination Authority in the language in which the Israeli Application was filed.*
 - e) *The Applicant filed a request to activate the Circular Letter and mentioned in said request that the conditions specified in this Circular Letter are fulfilled;*
- 2. *The Registrar who is in charge of the Examiners or his Deputy, are allowed to determine that the stipulations of Sections 4, 5 and 8 or parts thereof are not fulfilled regarding the Application, even should it withstand the conditions specified above, on the basis of the material which is in their possession or which was filed to them during the course of the Examination Process..*
 - 3. *The Examiner will examine the rest of the Application in accordance with Israeli law and rules including in accordance with Sections 12 and 13 of the law.*
 - 4. *The Examination Report which was mentioned in point 1b) above may be the Examination Report which was established in accordance with Chapter I of the PCT Convention or Chapter II of the Convention.*

The stipulations of Sections 4, 5, 8, 12 and 13 of the Patent Law 5727 - 1967 cited above read as follows [translated from Hebrew]:

Section 4

An invention is deemed to be new unless it has been published, in Israel or abroad, prior to the application date –

- (1) *by written, visual, audible or any other description, in such a manner that a man of the art can carry it out in accordance with the details of the description;*
- (2) *by exploitation or exhibition, in such a manner that a man of the art can carry it out in accordance with the details thus made known.*

Section 5

An inventive step is a step which to an average man of the art does not appear obvious in the light of information published, prior to the application date, in the ways indicated in section 4.

Section 8

A patent shall be granted for one invention only.

Section 12

- (a) *The specification shall contain a title by which it is possible to identify the invention, a description of the invention, with drawings as may be necessary, and a description of the manner of carrying out the invention such that a man of the art can carry it out according thereto.*
- (b) *In connection with section (a), an invention which relates to a biological material or to a process for the manufacture of a biological material or an invention which concerns the use of a biological material, and the biological material has been deposited in a deposit institution, that part of the description of the invention or how it is performed may be described by reference to said deposit in the form of and under the conditions which will be determined by the Minister of Justice with the permission of the committee of legislation, law and prosecution of the parliament in connection with this section.*

“A biological material” – a biological material which is not available to the public and cannot be described in a manner by which a man of the art can perform the invention but under the condition that the biological material can be duplicated or reproduced either in an independent manner or as a host either from living being or from a plant;

“A deposit institution” – an institution which has been acknowledged as an international institution according to Section 7 of the Budapest Convention or as an organization which the Registrar has acknowledged for this paragraph and a notification has been published in the Official Journal;

“Budapest Convention” – Budapest Convention regarding the international acknowledgement of the deposits of bacteria for the purpose of Patent proceedings, which was signed on April 28th, 1977 and which was amended on September 26th, 1980. The convention is deposited for review in the Patent Office.

Section 13

- (a) *The specification shall end with a claim or claims defining the invention: Provided that each claim shall reasonably arise out of the description contained in the specification.*
- (b) *A claim may express an element of the invention as a means or a step for performing a certain activity without specifying the structure, the material or the activities required to perform said activity; a claim expressing as mentioned above is deemed as if the structure, the material or the activity which are specified in the specification, is specified in said claim.*

We would like to state that the Registrar does not take any responsibility that the stipulations abroad correspond to the stipulations of the Israeli law. Thus, in Opposition or Revocation Proceedings it may be argued that the Israeli Application was not examined properly.

As you can understand, the main difference in this amended Circular Letter 71 is that it is no longer possible to argue based on the International Examination Report that Section 12, which relates to the Specification, and Section 13, which relates to the Claims, were fulfilled.

Please do not hesitate to contact us should you require further assistance and/or clarification.

Yours very truly,
DR. YITZHAK HESS & PARTNERS