

Republic of Latvia

Cabinet

Regulation No. 413

Adopted 28 June 2016

By-law of the Industrial Property Board of Appeal

*Issued pursuant to
Section 16, Paragraph one of the State Administration Structure Law*

I. General Provisions

1. The Industrial Property Board of Appeal (hereinafter – the Board of Appeal) is a collegial decision-making institution appointed by the Cabinet which examines extrajudicial disputes regarding invention patents (including supplementary protection certificates for medicinal products and plant protection products), trademarks, designs, and topographies of semiconductor products (hereinafter – the objects of industrial property) arising from registration and post-registration procedures of the objects of industrial property.

2. Purpose of operation of the Board of Appeal is to examine extrajudicial disputes arising from registration and post-registration procedures, and also to ensure, in post-registration procedures, implementation of earlier rights provided for in the industrial property laws and regulations.

II. Functions, Tasks, and Rights of the Board of Appeal

3. The Board of Appeal shall have the following functions:

3.1. to examine the notices of appeal regarding decisions of the Patent Office provided for in the industrial property laws and regulations (matters of appeal);

3.2. to examine notices of opposition of the third persons to registration of an object of industrial property provided for in the industrial property laws and regulations (matters of opposition).

4. To ensure the performance of functions, the Board of Appeal shall perform the following tasks:

4.1. take a decision to initiate a matter in relation to the notice of appeal or notice of opposition;

4.2. prepare matters of an appeal and opposition for examination;

4.3. communicate the materials of the matter to the parties in the matter of opposition;

4.4. endeavour to reconcile the parties in a matter of opposition;

4.5. determine the examination of a matter in the written or oral procedure;

4.6. examine the matter in the written procedure or in a session of the Board of Appeal and take a decision collegially;

4.7. render a motivated decision and send its true copy to the parties in a matter;

4.8. each year prepare an annual report on its activities during the previous year and publish it on the website of the Patent Office;

4.9. analyse and compile materials related to the case-law of examination of matters of an appeal and opposition in a systematic manner;

4.10. inform the Director of the Patent Office of the failure to observe laws and regulations and of the deficiencies in the registration and post-registration procedures of the objects of industrial property in the Patent Office;

4.11. develop proposals for improvement of the industrial property laws and regulations and submit them to the Director of the Patent Office;

4.12. develop proposals for improvement of examination of matters of appeal and opposition.

5. The Board of Appeal shall have the following rights:

5.1. during the process of examination of a matter of an appeal or opposition to request from the units of the Patent Office the relevant application matter or any document or material of the matter necessary for the examination of a matter of an appeal or opposition, and also the explanation of the examiner of the Patent Office, who has examined the application, regarding the appealed decision;

5.2. to take decisions with recommending character on issues related to the procedures for examination of applications and application of laws and regulations in the Patent Office.

III. Competence of the Chairperson and Members of the Board of Appeal

6. The Chairperson of the Board of Appeal or a person who fulfils the obligations of the Chairperson of the Board of Appeal in accordance with the Law on Industrial Property Institutions and Procedures shall:

6.1. organise and manage the work of the Board of Appeal ensuring the performance of functions thereof, and carry out the control of the observance of the determined procedural time periods;

6.2. approve the composition of the Board of Appeal for the examination of the matter and the Chairperson of the composition for the examination of the matter for the examination of each matter of appeal or opposition, and also approve a new composition for the examination of the matter if it changes after commencement of the examination of the matter;

6.3. approve the schedule of the sessions of the Board of Appeal once a month;

6.4. consult members of the Board of Appeal on issues related to the examination procedure of matters of appeal or opposition;

6.5. convene Board of Appeal meetings to analyse the case-law of examination of matters of appeal or opposition;

6.6. participate in examination of matters of appeal or opposition in the status of a session Chairperson or member;

6.7. in the cases laid down in the Law on Industrial Property Institutions and Procedures take a decision on behalf of the Board of Appeal sitting alone;

6.8. within the competence, represent the Board of Appeal in relations with natural persons and legal persons governed by private law in issues relating to the examination of matters of appeal and opposition;

6.9. ensure the compliance of the qualification of the members of the Board of Appeal with the merits of the matters to be examined, including by taking care of the raising of qualification, training and the required additional specialisation of the members of the Board of Appeal, and also notify the Director of the Patent Office of the need to organise new certification examination of the members of the Board of Appeal;

6.10. manage the preparation of the reports on the activities of the Board of Appeal.

7. A Chairperson of the composition for the examination of the matter of the Board of Appeal shall:

7.1. determine the schedule for examination of a matter and be responsible for complying with it;

- 7.2. take decisions in procedural issues;
- 7.3. prepare the matter of an appeal or opposition for examination;
- 7.4. chair the examination of the matter and the session of the Board of Appeal;
- 7.5. where necessary, determine another rapporteur of a matter of an appeal or opposition;
- 7.6. prepare a decision of the Board of Appeal in the relevant matter of an appeal or opposition;
- 7.7. perform the control of postponed and suspended matters;
- 7.8. pursuant to a court summons, provide answers to the questions posed by the court, if any of the parties in the matter has applied to the court in relation to a decision of the Board of Appeal.

8. The rapporteur of a matter who is not a Chairperson of the composition for the examination of the matter of the Board of Appeal shall:

- 8.1. prepare the matter of an appeal or opposition for examination;
- 8.2. prepare a decision of the Board of Appeal in the relevant matter of an appeal or opposition.

9. Member of the Board of Appeal shall:

- 9.1. participate in the preparation of the matter of an appeal or opposition;
- 9.2. participate in the examination of the matter of an appeal or opposition in the session of the Board of Appeal;
- 9.3. upon assignment of the Chairperson of the Board of Appeal perform the obligations of the secretary;
- 9.4. participate in the preparation of the decision of the Board of Appeal.

10. The Chairperson of the Board of Appeal and members of the Board of Appeal shall, upon performing organisational operations, observe the internal regulations of the Patent Office and orders of the Director of the Patent Office, and also according to their competence be involved in the development of the strategy, working plan, internal regulations, and other documents of the Patent Office.

11. The disciplinary liability of the Chairperson of the Board of Appeal and members of the Board of Appeal shall be governed by the Law on Industrial Property Institutions and Procedures.

IV. Examination of Matters of an Appeal and Opposition

12. When taking decisions in the course of the examination of a matter of an appeal and opposition, the Chairperson of the Board of Appeal and members of the Board of Appeal shall be independent and not subjected to orders of other persons or other direct or indirect influence.

13. The decisions of the Board of Appeal shall enter into effect and may be contested in accordance with the procedures laid down in the Law on Industrial Property Institutions and Procedures.

V. Closing Provisions

14. Cabinet Regulation No. 623 of 23 August 2005, By-law of the Board of Appeal of the Patent Office (*Latvijas Vēstnesis*, 2005, No. 135), is repealed.

15. This Regulation shall come into force on 18 July 2016.

Acting for the Prime Minister – Minister for Financ

Dana Reizniece-Ozola

Minister for Justice

Dzintars Rasnačš