

Cyprus

Administrative procedure

Opposition

No formal pre- or post-grant opposition procedure is available.

Appeal

Any person may file an appeal to the Administrative Tribunal from acts of the Department of Registrar of Companies and Official Receiver (hereinafter the “Registrar”). The judicial review is conducted by the Administrative Tribunal and may be followed by an appeal to the Supreme Court on a point of law. The review is before one Administrative Tribunal judge and a further appeal before five Supreme Court judges. The time limit for a review is 75 days, and 14 days for an appeal from a review.

Civil procedure

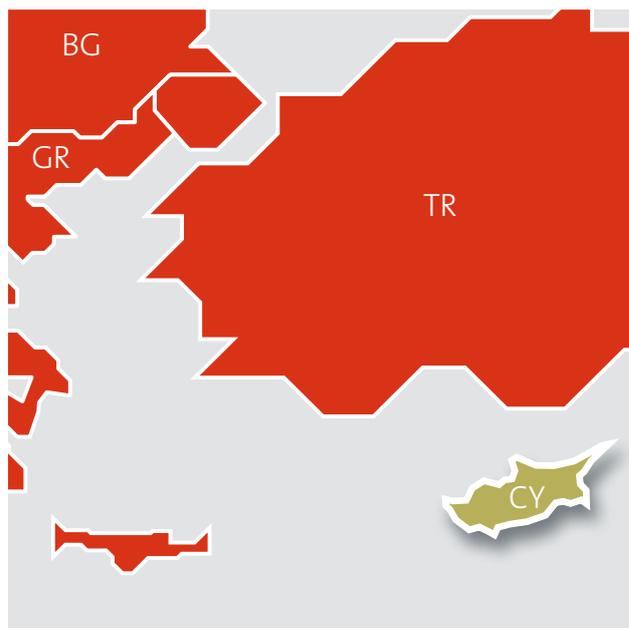
Infringement

A patent owner may institute legal proceedings against anyone who infringes his rights as patentee.

Unless the licence contract provides otherwise, any licensee may request the patent proprietor to institute court proceedings for any infringement indicated by the licensee, who must specify the relief desired. If the licensee proves that the patent proprietor has received the request but refuses or fails to institute proceedings within three months of receipt of the request, the licensee may institute proceedings in his own name, after notifying the proprietor of his intention (Art. 61(4)(a), (b) PA).

Infringement actions become statute-barred five years from the act of infringement (Art. 61(1) PA).

The Supreme Court of Cyprus may decide to stay any proceedings brought before it in respect of unauthorised acts performed in relation to an invention that is the subject of a published application until a final decision has been made by the Registrar to grant or to refuse a patent on the application (Art. 28(2) PA).



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Nullity/counterclaim for revocation

The Supreme Court of Cyprus may, on application of any person, invalidate a patent, in whole or in part, on any of the grounds named in Art. 58 PA. Invalidation works retroactively (Art. 59 PA).

If the action is withdrawn, the invalidation proceedings will not continue.

Under national patent law (PA), it is not possible to amend a patent in a post-grant procedure.

A defendant in the infringement proceedings may request the invalidation of the patent in the same proceedings. The provisions and requirements of the invalidation procedure apply (Art. 61(3), 58 PA).

Remedies

Injunction, damages.

Other actions

Any interested party has the right to institute proceedings against the proprietor of the patent. The Supreme Court may declare that the performance of a specific act does not constitute infringement of a patent (Art. 62(1) PA).

The patent proprietor has to prove that the act in question does not constitute infringement. If infringement proceedings are already pending, the defendant in the infringement proceedings may not institute proceedings for a declaration of non-infringement (Art. 62(2) PA).

Appeal

There is a review before one Supreme Court judge and a further appeal before five Supreme Court judges.

Parallel proceedings

There is no provision for parallel proceedings under national patent law.

Arbitration/mediation

There is no arbitration or mediation in patent litigation in Cyprus.

Enforcement

During the procedure, enforcement is performed by the court bailiffs or any other person authorised by the court (Section 4 Civil Procedure Law, Cap. 6).

After termination of the procedure or the final decision of the court, the court decision which awards damages is overseen by the same court and its bailiffs. Payment of damages is enforced by the same court which imposed the damages through the relevant provisions of the Civil Procedure Law.

Compulsory licence

A compulsory licence may be granted in cases of non-working, refusal to grant a licence for a product for which demand in Cyprus is not (or not reasonably) met, dependent patents, economic needs, unfair conditions imposed by the proprietor, or public interest (Art. 49-51 PA).

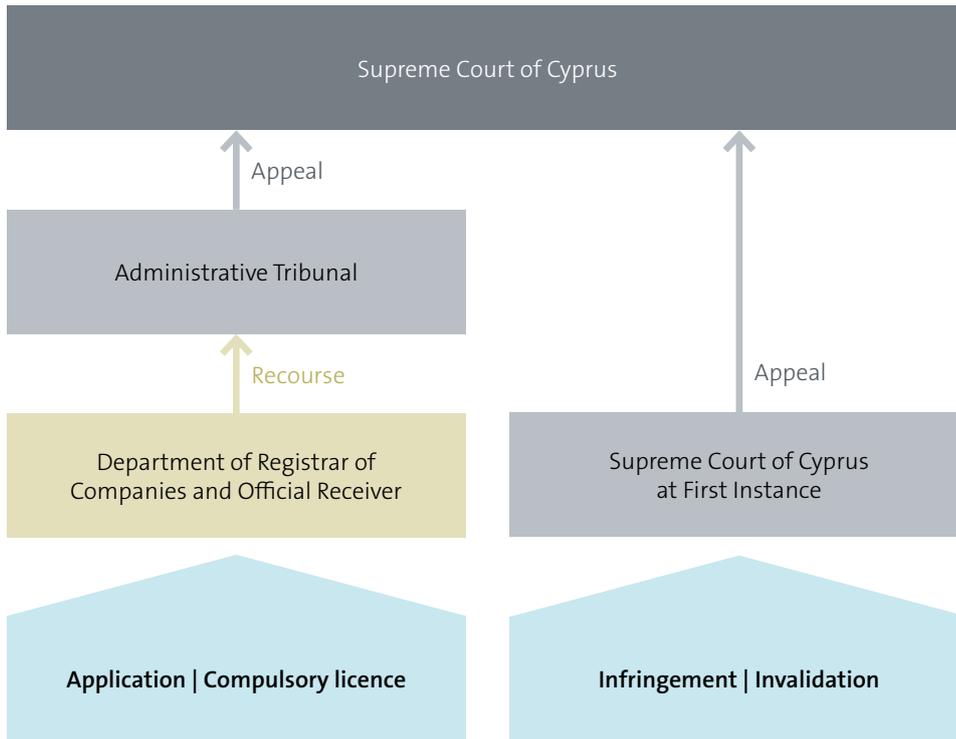
The proprietor of a patent or any other person wishing to oppose an application for a compulsory licence may give the Registrar notice of opposition, which the Registrar considers in deciding whether to grant the application (Art. 52(1) PA).

Where an application for a compulsory licence is opposed and either the parties consent or the proceedings require an extended examination of documents or any scientific research which cannot in the opinion of the Registrar conveniently be made before him, the Registrar may at any time order the whole proceedings or any issue of fact to be referred to an arbitrator or mediator. The arbitrator or mediator reports his findings to the Registrar, who then proceeds with his decision (Art. 52(2), (3) PA).

Relevant national law

Patents Law – No. 16(I) of 1998 as amended by Law 21(I)/1999; 153(I)/2000; 163(I)/2000; 122(I)/2006 [cited as: PA]

Competent authorities or courts



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