

## Lithuania

### Administrative procedure

#### Opposition

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

After publication of a patent application any person may inspect it (Art. 27 PL).

#### Appeal

The Appeals Division of the State Patent Bureau of the Republic of Lithuania (hereinafter the "Patent Office") is responsible for settling all pre-grant disputes between the applicant and the examiner with respect to the filing date, the priority date, the examination findings and refusal to grant a patent (Art. 51 PL). The appeal has to be filed within three months from the date of dispatch of the decision of the examiner.

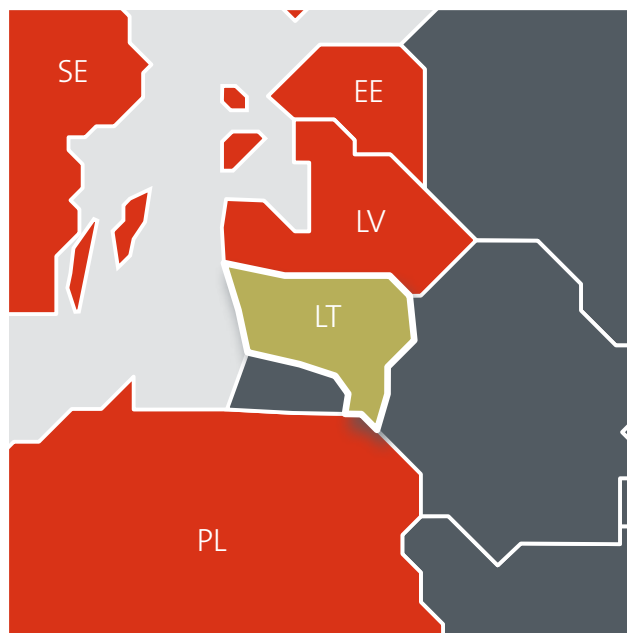
The applicant may appeal to the Vilnius County Court against the decision of the Appeals Division within three months.

The decision of the Vilnius County Court can be appealed to the Court of Appeal. Annulment ("cassation") is possible and will be dealt with in the Supreme Court of Lithuania, but the Supreme Court does not rule on points of fact, only on the application of the law.

### Civil procedure

The Vilnius County Court is solely responsible for disputes regarding:

- a) decisions of the Patent Office's Appeals Division;
- b) assignment of a patent application or patent ownership to a different person;
- c) full or partial invalidity of a granted patent;
- d) infringement of a patent application for which temporary protection is granted;
- e) infringement of a granted patent;



- f) declaration of non-infringement of a patent;
- g) granting, revocation and change of conditions for compulsory licences (as described in Articles 48 and 49 PL);
- h) revocation of a patent (Art. 51 PL).

### Infringement

Infringement proceedings must commence in the Vilnius County Court.

The action may be brought by the applicant, the proprietor or successor in title, or by an exclusive licensee.

Temporary legal protection will be provided for a published patent application from the date of its publication until the date of patent grant (Art. 26 PL). The applicant temporarily acquires the rights of the owner of the patent; he can apply for the application of remedies, and can request the termination of infringing acts as well as compensation for the material damage incurred, etc. (Art. 52 PL).

Experts may be involved in the proceedings; however, their opinion is not binding on the court.

## Nullity/counterclaim for revocation

On the basis of the action, any person concerned may institute proceedings to invalidate a patent (Art. 63 PL).

Partial invalidation is available. Invalidation has retroactive effect (Art. 63 PL).

If the action is withdrawn, the proceedings will not be continued.

A patent owner who wishes to narrow the legal protection of a granted patent has the right after paying a fee to request the Patent Office to make patent amendments (Art. 61 PL). In addition, requests for limitation exist in practice, but do not frequently occur.

Invalidity may also be used as a defence, which the court will then decide on.

## Remedies

Temporary or permanent injunction, damages, expenses (Art. 52 PL).

## Other actions

Any person concerned may institute court proceedings against the owner and request the court to declare that the performance of a specific act does not constitute infringement of the patent (Art. 59 PL). If the person concerned proves that the acts performed by him do not constitute infringement of the patent, the court issues a decision of non-infringement.

## Appeal

Decisions of the Vilnius County Court may be appealed to the Court of Appeal within thirty days after the decision date. Annulment ("cassation") is possible and will be dealt with in the Supreme Court of Lithuania (on questions of the application of the law).

## Parallel proceedings

Lithuanian national legislation does not directly regulate such cases, but under Article 1623 of the Code of Civil Procedure the court may suspend national proceedings if the EPO proceedings would be important for correct examination of the national case; this practice of suspending cases has been applied in courts.

## Arbitration/mediation

Disputes over patent registration may not be referred to commercial arbitration (Art. 12(2) Law on Commercial Arbitration of the Republic of Lithuania). Other patent disputes may be referred to commercial arbitration, but if one party to the dispute is a state or municipal institution or organisation other than the Bank of the Republic of Lithuania, the prior consent of the founder of the institution or organisation to refer the dispute to commercial arbitration must be obtained (Art. 12(3) Law on Commercial Arbitration of the Republic of Lithuania).

## Enforcement

During and after the proceedings a bailiff is responsible for enforcing an order.

## Compulsory licence

May be granted by the Vilnius County Court. Applicants must demonstrate that:

- a) they have applied unsuccessfully to the owner of the patent for a biological invention or the holder of a plant variety right to obtain a contractual licence;
- b) the plant variety or the biological invention constitutes significant technical progress of considerable economic interest compared with the invention claimed in the patent or the protected plant variety (Art. 48 PL).

Compulsory licences concerning pharmaceutical products may be granted by the State Medicines Control Agency under the Ministry of Health of the Republic of Lithuania.

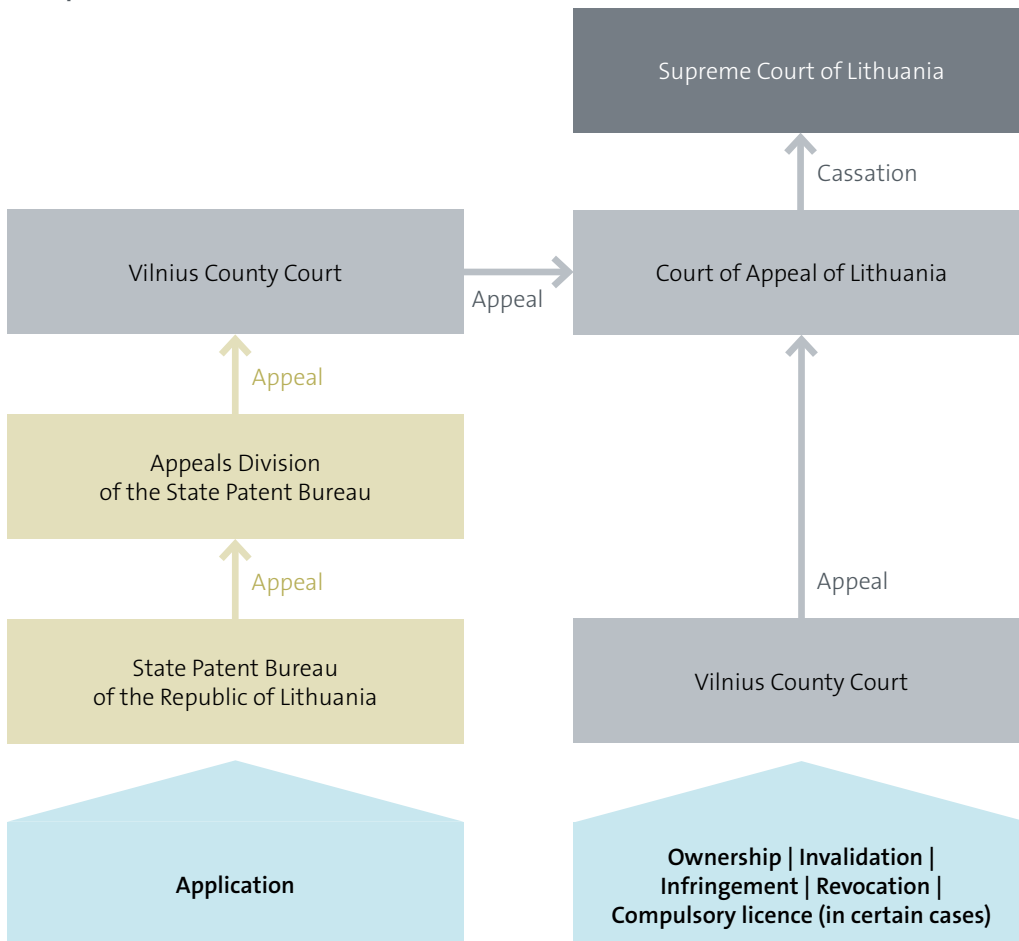
An invention may be exploited with the authorisation of the Government (Art. 50 PL); the Government may adopt a resolution to permit a person to market, without the consent of the owner of a patent, a patented invention within the territory of the Republic of Lithuania if:

- a) an invention protected by a patent is related to public needs, national security, public health protection or the development of economically important sectors;
- b) the court determines that a method for exploiting an invention employed by the proprietor or licensee is anti-competitive.

## Relevant national law

Patent Law of the Republic of Lithuania of 18 January 1994, No. I-372; new edition of the Patent Law of the Republic of Lithuania in force since 3 February 2012 [cited as: PL]

## Competent authorities or courts



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