

Latvia

Administrative procedure

Opposition

Not available.

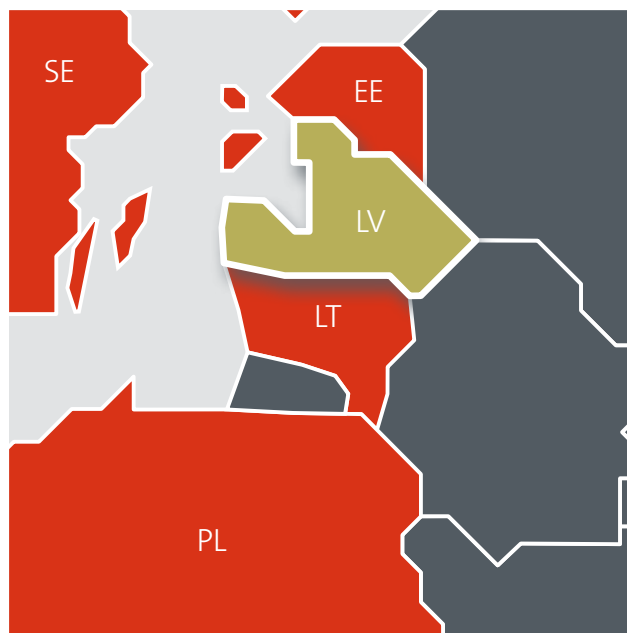
Appeal

If an applicant or another addressee (e.g. the owner of the patent, the former owner of the patent, the successor in title, the licensee) of a decision of the Patent Office of the Republic of Latvia (hereinafter the “Patent Office”), disagrees with the decision taken in registration or post-registration proceedings by the Patent Office, he is entitled, within three months from the date of notification of the decision and after payment of the appeal fee, to file a substantiated written appeal with the Patent Office.

The filing of an appeal suspends execution of the Patent Office’s decision. The Patent Office shall, without delay, hand over the submitted notice of appeal to the Industrial Property Board of Appeal, which examines the appeal (Section 39 PL, and Section 58 Law on Industrial Property Institutions and Procedures). According to Section 98, “Applying to the Court in Relation to a Decision of the Board of Appeal”, a party in a matter who disagrees with the decision of the Board of Appeal by which a dispute in a matter of appeal or opposition has been resolved, may, within three months after the day of the notification of the decision apply to the City of Rīga Vidzeme Urban District Court in accordance with the procedures laid down in the Civil Procedure Law with a statement of claim, depending on the nature of the matter and the decision:

1) the submitter of a notice of appeal, if the notice of appeal has been fully or partially refused – with a claim regarding the protection of his or her affected legal interests and request to impose an obligation on the Patent Office to establish legal relations according to the application for the registration of an object of industrial property (to carry out registration of an object of industrial property);

2) the Patent Office, if a notice of appeal has been fully or partially satisfied – with a claim to recognise an application for the registration of an object of industrial property as non-conforming to the provisions of an industrial property law or regulation, and the decision of the Patent Office – as legally effective.



The decision of the City of Rīga Vidzeme Urban District Court may be appealed to the Riga Regional Court, which will act as the final instance in the administrative procedure.

Civil procedure

Infringement

The patent owner or licensee may initiate proceedings to the City of Rīga Vidzeme Urban District Court concerning the infringement of exclusive rights of the owner. The licensee may initiate court proceedings for claims regarding illegal use of a patent, with the consent of the owner. Consent of the patent owner is not necessary if he does not bring the claim to court, even if the exclusive licensee has invited him to do so in writing (Section 62(2) PL). The dispute will be reviewed by the court in accordance with the Civil Procedure Law.

Responsibility for patent infringement arises only from the date when the patent is granted and only for acts performed after that date.

A person against whom a claim is brought to the court in relation to illegal use of a patent may not object to the claim purely on the basis that the patent is not being exploited or its use has to be discontinued for other reasons. The defendant may bring a counterclaim to court for invalidation of the patent in conformity with the PL. In such cases, an infringement of the patent may be determined insofar as the patent is validated (Section 63(3) PL).

In infringement cases, the patent owner or licensee has the burden of proof to prove patent infringement. An exception to this is where patents are granted for a process of making a new product: any identical product is considered as manufactured according to the patented process, unless otherwise proven (Section 63(1) and (2) PL).

An action for infringement is no longer possible after three years from the date when the aggrieved party discovers or should have discovered the fact of the infringement (Section 67(1) PL).

Patent invalidation/counterclaim for revocation

A patent invalidation claim may be brought to the City of Riga Vidzeme Urban District Court, based on the grounds provided in Sections 56, 57 and 65 PL. The action may be brought by any person, subject to the conditions stated in Section 56, Clauses 1, 2 and 3, PL (Section 57(2) PL).

However, if the patent was granted to a person who had no right to receive it, invalidation may be requested by a person who has the right to the invention according to Section 12 PL.

Partial invalidation is available (Sections 57(3) and 58(1) PL).

Patent invalidation has retroactive effect: the invention is deemed to lose legal protection provided for in the PL as from the filing date of the patent application to the extent that the patent has been declared invalid (Section 59(1) PL).

If the claim is withdrawn, the proceedings will be continued.

Court cases in Latvia relating to granted patents are rare. The court has taken different decisions – revocation of the patent, amendment of claims or maintenance of the patent in granted form.

Remedies

If unlawful use of a patent has occurred due to the fault of a person, a patent owner or licensee may request compensation for losses suffered and moral damage caused as a result of the infringement.

Upon requesting compensation for loss, the patent owner or licensee may request one of the following types of compensation:

- 1) compensation for damage suffered;

- 2) licence fee – the amount which the owner of the patent may receive in respect of granting the right to use the patent to a licensee;
- 3) income gained, as a result of the infringement.

The amount of compensation for moral damage shall be determined by the court at its own discretion (Section 64, “Procedures for Determining the Compensation for Losses and Compensation for Moral Damage”, PL).

Other actions

The City of Riga Vidzeme Urban District Court as the court of first instance shall also examine the following cases related to the legal protection of inventions according to the civil procedures:

- 1) the re-establishment of the right to a patent;
- 2) the right of prior use;
- 3) the determination of the fact of the non-existence of an infringement of the patent (declaration of non-infringement);
- 4) the grant of a licence, the provisions of a licence contract or the performance thereof; and
- 5) the right to a compensation due to the impossibility to utilise the invention openly.

Jurisdiction of other disputes shall be determined in accordance with the Civil Procedure Law (Section 65, “Jurisdiction of Courts”, PL).

Appeal

Parties may submit a notice of appeal regarding a judgment (supplementary judgment) at first instance to the Riga Regional Court according to the CPL (Sections 413 and 414 CPL). Second instance decisions may be appealed to the Supreme Court on points of law.

Parallel proceedings

The Patent Office stays proceedings until proceedings at the EPO relating to the relevant patent have been finalised. There is no available information on any national court case where parallel proceedings at the EPO are involved.

Arbitration/mediation

Arbitration/mediation in patent litigation is not provided for.

Enforcement

The enforcement of orders is handled by bailiffs (Section 548 CPL).

Compulsory licence

A compulsory licence may be granted by the Administrative Court in cases of non-working and vital importance for ensuring the interests of Latvian citizens. A compulsory licence is granted for utilisation in the internal market of Latvia. The owner of a compulsory licence must pay compensation to the owner of the patent, in an amount to be determined by the court in the light of the economic value of the licence, the extent of utilisation of an invention and other circumstances (Section 54 PL).

Relevant national law

- Patent Law of 15 February 2007, in force since 1 March 2007, with the latest amendments in force since 1 January 2016 [cited as: PL];
- Law on Industrial Property Institutions and Procedures of 18 June 2015, in force since 1 January 2016;
- Civil Procedure Law of 14 October 1998, in force since 1 March 1999, with the latest amendments in force since 1 May 2019 [cited as: CPL].

Competent authorities or courts

