

## Republic of North Macedonia

### Administrative procedure

#### Opposition

No formal pre- or post-grant opposition procedure is available. Patents are granted without examination for patentability.

#### Appeal

Decisions of the State Office of Industrial Property (hereinafter the "Patent Office") are final (Art. 19(1) PA). Administrative disputes may be brought before the Administrative Court within 30 days from the date of the decision. Decisions of the Administrative Court may be appealed before the High Administrative Court.

#### Revocation

According to Art. 275 PA, the Patent Office will declare a decision to grant a patent null and void if it establishes that the conditions stipulated by Articles 25(3), 27 and 30 PA for granting a patent are not satisfied. The procedure may be initiated at any time throughout the life of a patent by the party concerned or *ex officio*.

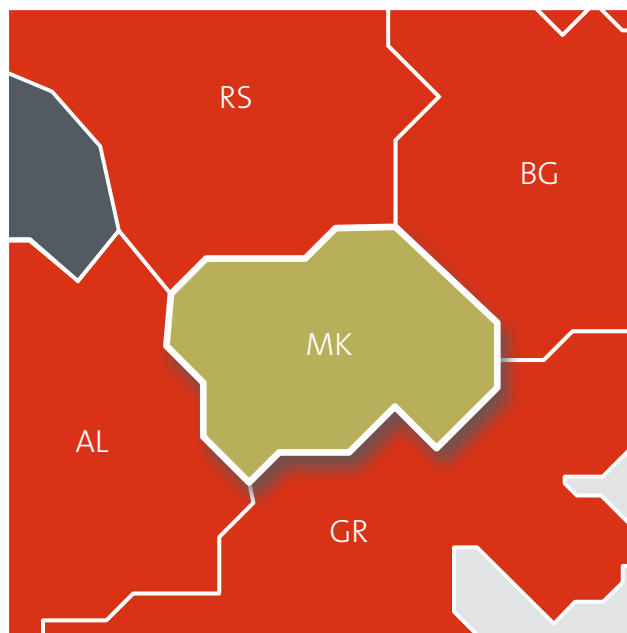
According to Art. 50 PA, a patent application which has been accorded a date of filing may not be amended by extending the subject-matter for which protection is requested.

However if, as a result of an opposition, the scope of the protection in a European patent is changed (limited), then, after notification from the patent holder, the patent will be maintained with the changed scope.

The administrative procedure for nullity is as follows:

#### Article 276 PA

- (1) The decision for recognising the right may be announced permanently void during the time of protection *ex officio* or if proposed by the party concerned.
- (2) By way of derogation from paragraph (1) of this Article, the proposal for announcing void decision for recognising the right of trademark may not be



submitted by a holder of the earlier registered trademark, if during five subsequent years prior to submitting the proposal he was aware of the utilisation of the later trademark.

- (3) The proposal for announcing a decision as void shall be submitted to the Patent Office in writing.
- (4) The submitter shall be bound to submit all the evidence required to the proposal of paragraph (2) of this Article.
- (5) The Patent Office shall be bound within 15 days upon receipt of the proposal to submit the proposal to the holder of the right and invite him to provide an opinion within 60 days from the date of receiving the notice at the latest.

#### Article 277 PA

The decision announcing as void the decision for recognising the industrial property right shall be registered in the appropriate Register and published in the official newsletter of the Patent Office.

#### Article 278 PA

The Patent Office may continue the procedure *ex officio* if the submitter of the proposal during the procedure renounces his proposal to announce void the decision for recognising the right.

## Civil procedure

Specialised departments of 13 Courts of First Instance with enhanced competence have jurisdiction over cases related to intellectual property law.

## Infringement

The patent owner may bring a civil action before the competent civil court (Art. 291(1) PA). Proceedings may be instituted against any person who is alleged to have performed an act of infringement under Art. 298(1) PA.

The inventor may ask to be named in the application and other documents by filing a lawsuit to the competent court (Art. 306 PA). This is a separate procedure.

## Nullity/counterclaim for revocation

In civil proceedings, where there is a counterclaim for revocation or nullity, the civil court will stay the proceedings (subject to a deadline) pending evidence from the substantive examination of one of the PCT authorities or an authority for substantive examination under a bilateral agreement (e.g. Hungary or Romania).

## Remedies

Determination and cessation of the violation, compensation by damages, confiscation and destruction of infringing materials, alternative measures (the competent court may order payment of cash compensation to the damaged party as an alternative measure if the person was acting unintentionally and without negligence, and if implementation of the relevant measures would have caused him disproportionate damage and if the damaged party is satisfied with the cash compensation), civil punishment (if rights acquired on the basis of the Patent Law are violated, intentionally or with ultimate negligence, the holder of the right may ask for payment of the regular compensation increased to 200%, regardless of whether, due to the violation, he has suffered property loss in that amount), publication of the verdict (Arts. 298 to 301, 303 and 304 PA).

## Other actions

No information available.

## Appeal

The Courts of Appeal are competent to decide on appeals against decisions of the Courts of First Instance.

The Supreme Court is competent to decide at third and final instance on appeals against decisions of the Courts of Appeal.

## Parallel proceedings

In case of an appeal during the examination proceedings before the EPO, if the EP application has already entered the national phase, the Patent Office will not take any decision until the entire grant procedure before the EPO has been completed.

In case of an opposition after the final decision, the patent holder has to notify the Patent Office of the outcome of the opposition procedure, after which the Patent Office will proceed in accordance with the final outcome (revocation or limitation).

Where the EPO procedure has started before the proceedings in the national courts, the courts will stay proceedings pending final decision of the EPO regarding the patent.

## Arbitration/mediation

Mediation is available in patent litigation proceedings. Mediators may be used during the proceedings. The Ministry of Justice is responsible for training and issuing licences to mediators.

In disputes with a foreign element, a mediator may be a foreign citizen if he is authorised to conduct mediation in his home state.

## Enforcement

Responsibility for enforcing an order during the procedure lies with the court of the proceedings.

After the final decision of the court, only in case of forced execution, responsibility lies with private bailiffs. There are also procedures for administrative execution, for which the administrative bodies are responsible.

## Compulsory licence

May be granted by the competent court in cases of insufficient exploitation, national emergencies, public interest in the area of public health (in the pharmaceutical industry), food, protection and promotion of the environment or if it is of particular interest to a certain industrial field or if it is necessary for implementing the judicial and administrative procedure related to protection of competition (Art. 97, 101(1) PA).

## Relevant national law

Law on Industrial Property No. 21/09 of 2009 [cited as: PA];

Patent Regulations No. 92/09 of 2009.

## Competent authorities or courts

