

Serbia

Administrative procedure

Opposition

Not available.

Appeal

Decisions of the Intellectual Property Office of the Republic of Serbia (hereinafter the "Patent Office") may be appealed with the Government (Administrative Commission) within 15 days from receipt of the decision, unless the Patent Law provides otherwise (Art. 67 PL).

Administrative dispute proceedings may be instituted against a Government (Administrative Commission) decision on an appeal within 30 days from receipt of the decision (Art. 67 PL).

Extraordinary remedies are allowed against decisions of the Administrative Courts. The Supreme Court of Cassation decides on extraordinary legal remedies (Art. 144 PL).

Revocation

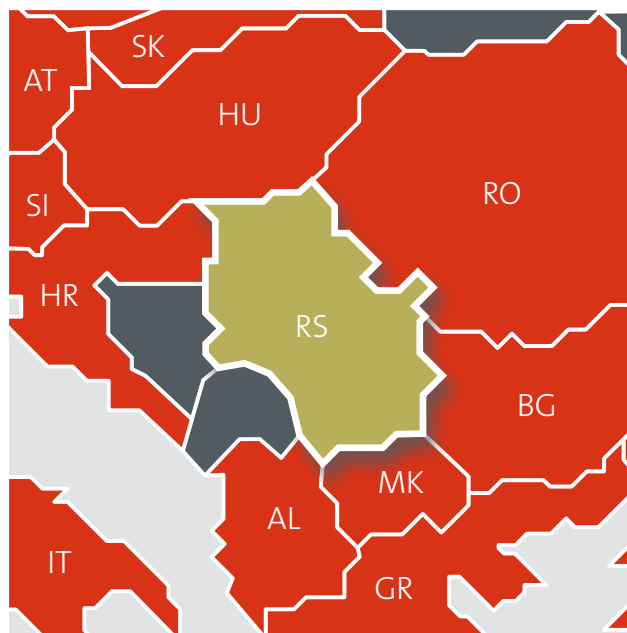
The validity of a patent may be challenged before the Patent Office.

At any time, any third party is entitled to submit a request for revocation.

On valid grounds for revocation, the Patent Office will revoke a decision on the grant of a patent, in whole or in part. (Art. 128 PL).

The Patent Office will publish particulars of the revoked patent in the Official Gazette within three months from the date on which the decision becomes final (Art. 131 PL).

The Patent Office may take the decision to revoke the patent in part, whereby the patent is maintained in force with amended patent claims. This situation does not often occur.



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Civil procedure

Infringement

The applicant, owner of a patent or holder of an exclusive licence is entitled to institute civil proceedings against any person infringing his right (Art. 132 PL).

The applicant or the holder of an exclusive licence shall be entitled to infringement action upon the publication of the patent application (Art. 132 PL).

The competent court in civil cases between natural persons is the Higher Court at first instance; the competent court between legal persons is the Commercial Court.

In IPR cases, review is always allowed (as an extraordinary remedy); the Supreme Court of Cassation decides on reviews.

Nullity/counterclaim for revocation

See "Revocation" above.

Remedies

Finding of infringement, damages under civil law, publication of the court decision at the expense of the defendant, seizure, destruction, supply of information on third parties involved in the infringement, criminal sanctions.

Other actions

Prior user

A patent has no effect against a person acting in good faith who has, before the date of priority, already started exploiting a protected invention in production in the territory of the Republic of Serbia, or has made all necessary preparations to initiate such use (Art. 23 PL).

Action for establishment of the right to protection

In a civil action, the inventor, his successor in title or employer is entitled to require the court to establish his right to the protection of a given invention or to establish that he is the right holder, instead of or together with the person who has already filed an application for that invention. This action may be brought before the right has been granted, or prior to expiry of the right if the decision to grant a patent has already been taken by the competent authority (Art. 140 PL).

Action for the protection of employers' or employees' rights

An employer and/or an employee entitled to the protection or commercial use of an invention made in the course of his employment may institute court proceedings for the establishment and protection of his rights. Legal proceedings for the establishment of employees'/employers' rights may be instituted within two years from the date of publication of the patent application, but not after expiry of two years from the date of termination of the employment during which the invention was made (Art. 141 PL).

Action for recognition of the status of inventor

If the patent/petty patent application or any other document provided by the law has designated any other person as an inventor, the inventor is entitled to institute civil proceedings requesting the court to establish his status as inventor or to order the entry of his name in the patent documents and registers kept by the Patent Office. There is no time limit for the institution of proceedings (Art. 142 PL).

Appeal

Decisions may be appealed to a Court of Appeal and the Commercial Appellate Court.

Parallel proceedings

If a request for revocation of a European patent is filed with the Patent Office after initiation of the EPO opposition procedure referred to in Article 99 EPC or of the limitation or revocation procedure referred to in Article 105a EPC, the Patent Office will stay its revocation proceedings until the proceedings before the EPO have terminated (Art. 157 PL).

The civil court shall stay infringement proceedings until the competent authority renders a final decision on the revocation procedure.

Arbitration/mediation

Mediation is available in patent litigation proceedings (Art. 3 ML) on the basis of a written agreement on mediation between the parties (Art. 19 ML).

The mediator must meet the requirements prescribed in the Law on Mediation (Art. 33 ML).

Enforcement

The competent court is responsible for enforcing orders during the proceedings, such as provisional measures (Art. 134 PL) or preservation of evidence (Art. 136 PL).

After the final court decision, the competent court or bailiff may be responsible for the enforcement of compensation for damages.

Compulsory licence

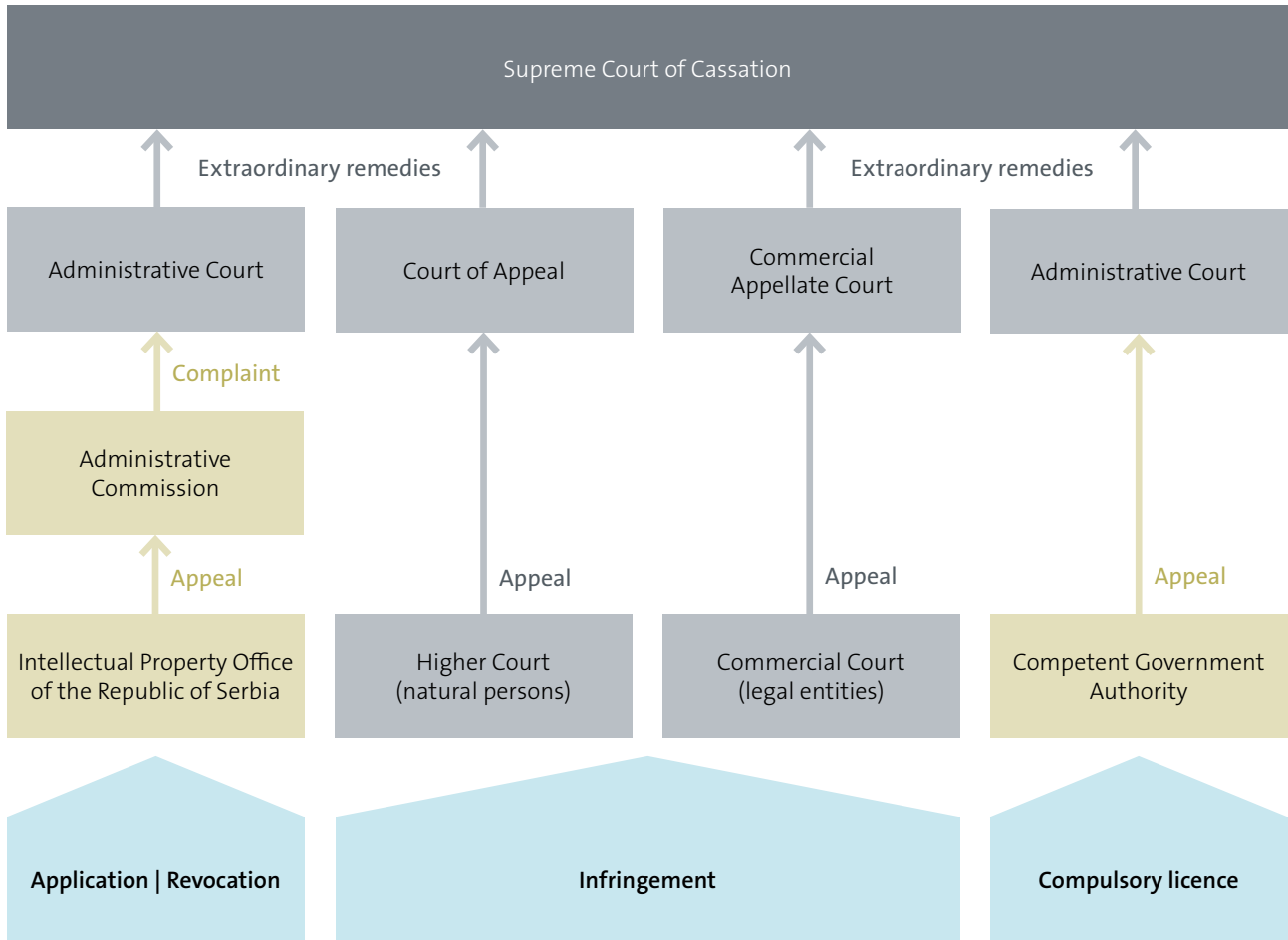
At the request of an interested party, a non-exclusive compulsory licence may be granted by the authority competent in the field in which the invention is designed to be employed (subject to further conditions, Art. 26 PL).

Relevant national law

Law on Patents (OG RS No. 99/11, 113/17 – other law and 95/18) [cited as PL];

Law on mediation in resolving disputes (OG RS No. 55/14) [cited as ML].

Competent authorities or courts



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