

Slovakia

Administrative procedure

Opposition

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

After publication of the application any person may file observations on its patentability. These observations will be taken into consideration during substantive examination. The persons filing them do not become parties to the application proceedings (Art. 42 PA).

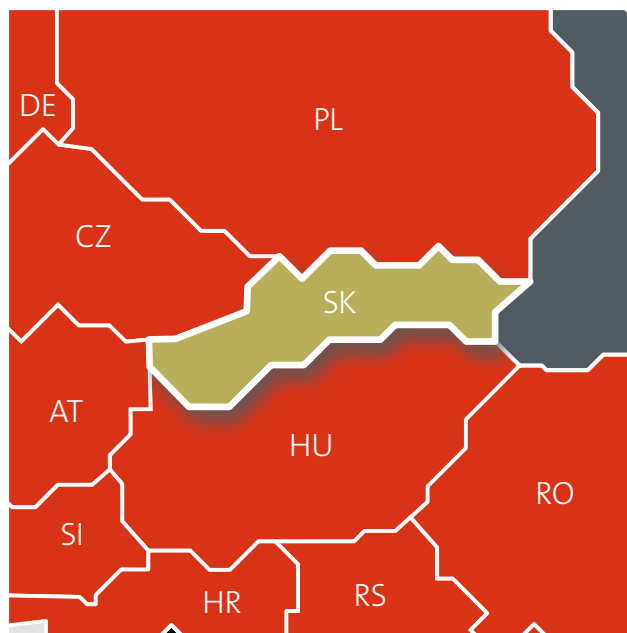
Third parties may, within 36 months from the filing date, request substantive examination of a patent application (Art. 43 PA).

Appeal

An appeal against the Industrial Property Office of the Slovak Republic (hereafter the "Patent Office") decision may be lodged with the Patent Office within 30 days from delivery of the decision (Art. 55 PA). Only a party to the proceedings or a person who may be directly affected is entitled to appeal. Once lodged, an appeal has suspensive effect. The President of the Patent Office decides on appeals on the basis of the proposals of the Appeal Commission's experts.

Extraordinary remedies:

- (a) Renewal of the proceedings: will be ordered by the Patent Office upon request, but only in certain cases (new facts, irregular practices of the administrative authority, untrue evidence). The request must be submitted within three months after the day the party became aware of the reasons for recovery (renewal of the proceedings), but not later than three years after the final decision.
- (b) Review of the final decision outside of the appeal procedure: if the final decision is contrary to the binding legal rules, the Patent Office may amend it (*ex officio* or upon request) or declare it null and void. This new decision is subject to further appeal.
- (c) Proceedings at the request of a prosecutor: if the



decision is unlawful, a request must be submitted within three years from the date of validity of the decision.

Judicial review: the final administrative decision may be contested by an action brought before the Regional Court in Banská Bystrica. The action can be filed for an alleged illegality of the contested decision within two months of its notification (Art. 181 Administrative Procedure Code). A cassation complaint against the ruling of the Regional Court in Banská Bystrica may be lodged with the Supreme Court within one month from delivery of the contested decision (Art. 443 Administrative Procedure Code).

Revocation

The Patent Office's Disputes Proceedings Department is competent for taking decisions at first instance. Revocation proceedings may be initiated at the request of a third party or *ex officio* (Art. 46 PA).

The request can be made during the entire lifetime of a patent (even after the patent has lapsed if the person requesting revocation proves a legal interest).

Partial revocation is available (amendment of patent claims, description and drawings).

The patent owner is entitled to request revocation, which

will be handled by the Patent Office without examining the grounds for revocation (Art. 46(5) PA). Revocation has retroactive effect.

Where a revocation request has been made by a third party, the Patent Office delivers the revocation request to the patent owner and invites him to respond within a set time period (Art. 47 PA).

If, at the time of revocation proceedings for a European patent before the Patent Office, opposition proceedings against the same European patent have started or have been pending before the EPO, the Patent Office will suspend revocation proceedings. After termination of proceedings before the EPO in which the European patent was not revoked, the Patent Office will, at the request of any party, continue its own European patent revocation proceedings. If a request for further proceedings on patent revocation is not submitted within six months from the date of validity of an EPO decision, the Patent Office will suspend patent revocation proceedings (Art. 65(6) PA).

Civil procedure

Infringement

The first instance court (District Court of Banská Bystrica) has exclusive competence to hear and adjudicate infringement cases (Art. 33 PA, Art. 25 of the Civil Disputes Procedure Code).

The person whose rights have been infringed or jeopardised is entitled to bring an action (Art. 32 PA).

Representation by an attorney-at-law before the court (at all instances) is compulsory (Art. 90 Civil Disputes Procedure Code).

Nullity/counterclaim for revocation

If a counterclaim for revocation is filed during infringement proceedings, the court may suspend the infringement proceedings until the Patent Office decides on the revocation request. The court has no competence either for revocation actions or for counterclaims for revocation.

Remedies

Preliminary injunction, permanent injunction, removal of infringement consequences, prevention of further infringement, destruction of infringing products, information on the origin of the product, compensation for damages (actual damage and loss of profits), immaterial injury, unjust enrichment, compensation for the costs of the proceedings (Arts. 32, 32a, 33, 34 PA, Arts. 442a, 458a of the Civil Code, Art. 255 et seq. of the Civil Disputes Procedure Code).

Other actions

Declaration of non-infringement, prior user, ownership or inventorship can be invoked by positive or negative action of determination in accordance with Art. 137(c) of the Civil Disputes Procedure Code.

Appeal

An appeal against a ruling of the first-instance court (the District Court of Banská Bystrica) may be lodged with the Regional Court in Banská Bystrica within 15 days from delivery of the contested decision (Art. 362 of the Civil Disputes Procedure Code). Only an unsuccessful party to the proceedings is entitled to appeal. Once lodged, an appeal has suspensive effect. Against the final decision of the Court of Appeal (Regional Court in Banská Bystrica) may be lodged a review (an extraordinary remedy) with the Supreme Court within two months from delivery of the decision of the Court of Appeal (Art. 427 of the Civil Disputes Procedure Code).

Parallel proceedings

Although there is no available information, the court will likely suspend proceedings pending decision at the EPO, as in the case of national revocation actions.

Arbitration/mediation

No arbitration is admissible unless a bilateral arbitration clause has been concluded between the parties before or during the court proceedings (Act No. 244/2002 Coll. on arbitration proceedings, as amended).

The parties are free to use the services of a professional mediator (Act No. 420/2004 Coll. on mediation, as amended). The Patent Office does not provide such services.

Enforcement

The court ruling, decision or order, regardless of whether it was issued during the proceedings or after the final decision, may be enforced at the request of the beneficiary by the court bailiff (Act No. 233/1995 Coll. on court bailiffs and enforcement, as amended). The court bailiffs are not employees of the courts in Slovakia, but they need a judicial warrant to start enforcement in each individual case.

Relevant national law

Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates and amended Acts as Amended [cited as: PA];

Act No. 162/2015 Coll. Administrative Procedure Code entered into force on 1 July 2016.

Compulsory licence

The competent court may grant a non-exclusive licence in cases of non-working and public interest (Art. 27, 28 PA).

Competent authorities or courts

