

## Slovenia

### Administrative procedure

#### Opposition

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

#### Appeal

There is no appeal against the decision of the Slovenian Intellectual Property Office (SIPO; hereinafter the “Patent Office”). Nevertheless, if a patent application is refused, an action for judicial review may be lodged with the Administrative Court of the Republic of Slovenia in Ljubljana within 30 days from the date on which the applicant or his representative received the decision of refusal (Art. 71 IPA).

The Patent Office has competence for administrative procedures related to matters regulated by the IPA. A lawsuit (on points of law and fact) against the Patent Office’s decision is allowed and must be filed with the Administrative Court in Ljubljana. In certain cases, an appeal may be filed (e.g. against decisions on procedural matters). Decisions on the merits are final; however, extraordinary legal remedies against such decisions may be filed with the Supreme Court.

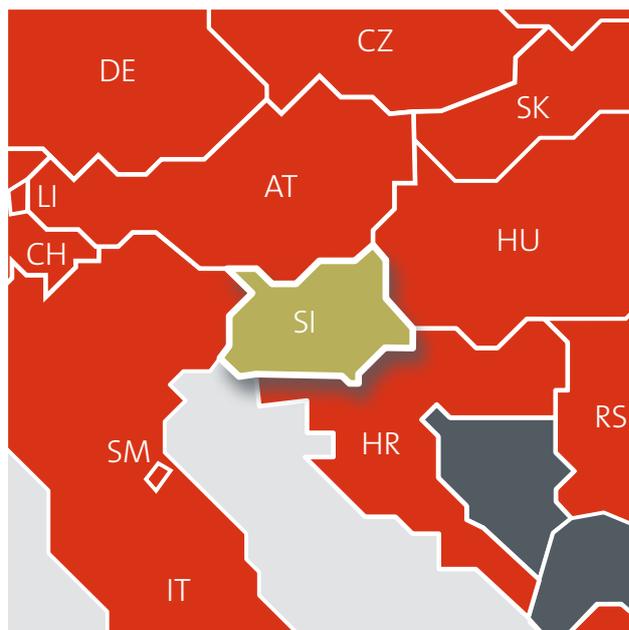
### Civil procedure

#### Infringement

Entitlement to sue for infringement rests with the patent holder or exclusive licensee or with professional associations established for the protection of industrial property rights (Art. 120a IPA).

A civil action may be filed with the District Court in Ljubljana (ordinary court – responsible for all IP cases in Slovenia), which has exclusive jurisdiction over all patent infringement cases in Slovenia (Art. 121 IPA). Patent infringement is also a criminal offence (in which case one of the county courts is competent).

The District Court of Ljubljana has exclusive jurisdiction over disputes related to intellectual property rights in civil law



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matters. An appeal may be lodged against a decision of the District Court with the High Court of Ljubljana; the decision of the High Court may be challenged to the Supreme Court only through extraordinary legal remedies (e.g. revision).

Where the infringement action relates to infringement of a national patent which has not been examined for substantive patentability requirements, the court will suspend proceedings until the Patent Office issues a declaratory decision on whether the written evidence filed by the patent holder meets the patentability requirements (Art. 122(2) IPA).

An infringement lawsuit becomes statute-barred in accordance with the general rules of the Civil Code.

#### Nullity/counterclaim for revocation

Any interested party may, at any time during the entire lifetime of the patent or after the patent has expired, bring an action for invalidation to the District Court in Ljubljana (Art. 111, 112 IPA). The court immediately notifies the Patent Office of the receipt of an action and of the final decision (Art. 72 IPA). The court submits its judgment together with confirmation of the judicial enforceability of the judgment to the Patent Office for execution.

Nullification has retroactive effect. Partial nullification is available.

There are not many court cases regarding the validity of a patent. Patent claim amendment is allowable, but only if such an amendment would narrow the already granted patent claims.

Nullity of a patent may be used as a defence or counterclaim.

## Remedies

When filing an action, the plaintiff may claim prohibition of infringement, recall of infringing goods from the channels of commerce, restoration of the previous situation, irrevocable removal of infringing goods from the channels of commerce, destruction of infringing goods, destruction of means of infringement that are owned by the infringer and intended or used exclusively or principally for infringement, publication of judgment, surrender of infringing goods against reimbursement of production costs, damages according to general tort law (all the claims may be decided in a separate or the same civil procedure) (Art. 121, 121a IPA).

Interim decisions and other measures are regulated in Articles 123 to 124(b) IPA.

## Other actions

Not available.

## Appeal

Ordinary appeal may be filed within 15 days at the Ljubljana High Court. A further extraordinary appeal to the Supreme Court is available (restricted to points of law).

## Parallel proceedings

In case of action under Article 121 IPA relating to infringement of a patent or published European patent application, the court stays the proceedings until the Patent Office issues a declaratory decision (under paragraph (a) or (b) of Article 93 IPA) until the date of entry of the European patent in the patent register at the Patent Office (Art. 122(2) IPA).

## Arbitration/mediation

The IPA does not contain any provision regarding arbitration or mediation. However, the Act on Alternative Dispute Resolution in Judicial Matters (hereinafter AADRJM), which is a special law regulating settlements of legal disputes in alternative dispute resolution proceedings, applies to disputes arising from commercial, labour, family and other civil law relations. The AADRJM may therefore also be used in patent disputes.

There are several providers of mediation and/or arbitration. Some of them are grouped in the association of mediation organisations known as MEDIOS (<http://www.medios.si/>). The courts also offer their own mediation (so-called “court-adjointed mediation”) based on the provisions of the AADRJM.

## Enforcement

Where the court decision is based on the IPA (i.e. patent grant, patent validity), other than lawsuits for infringement, the court sends its final and enforceable decision to the Patent Office for execution (Art. 72 IPA).

Where the court decision is related to infringement lawsuits and other non-IPA-based claims (e.g. law of contracts), the executors are responsible for enforcing an order; in some cases these executors must be bailiffs.

## Compulsory licence

A compulsory licence may be granted by the court in cases of public interest, or if the court determines that the owner or licensee is abusing the right to a patent (Art. 125 IPA).

## Relevant national law

Industrial Property Act of 23 May 2001 as last amended on 27 November 2013 as in force from 21 December 2013 [cited as: IPA]

## Competent authorities or courts

